THE Clerk's Instructor

In the Practice of the Courts of

KING's BENCH

AND

COMMON PLEAS:

Viz.

In ſuing out *Proceſs*, entring *Appearances* and putting in *Bail*, drawing *Declarations*, *Pleas* and *Demurrers*, &c. making up *Iſſues* and *Paper-Books*, ingroſſing and paſſing *Records*, making out *Venire Facias*, *Habeas Corpora* and *Diſtring' Jur'*, drawing *Briefs*, ingroſſing *Poſteas*, entring and docquetting *Judgments*, arreſting *Judgments*, ſigning *Non Proſs's*, ſuing out *Executions*, *Inquiry*, *Error*, *Certiorari*, *Habeas Corpus*, *Procedendo*, *Scire Facias*, *Superſedeas*, *Attachments*, *Originals*, *Audita Querela's*, &c. in Proceedings relating to *privileged Perſons*, *Infants*, *Priſoners*, *Ejectments* and *Outlawries*, &c. and in paſſing *Fines* and ſuffering *Recoveries*.

The Second Edition, Carefully reviſed, and the Tranſlation of the Precedents corrected from the Errors in the former Edition publiſhed by *Daniel Reading*, and now made conformable to the preſent Practice, with very large Additions.

By an ATTORNEY at LAW.

VOL. II. Containing

The Practice of the Court of Common Pleas.

In the SAVOY:

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THE AUTHORITY AND JURISDICTION OF THE Court of Common Pleas.

THE Juriſdiction of this Court is general, and extends itſelf throughout *England*, in like manner as the *King's Bench;* but this Court is fixt, and muſt be held in a Place certain, and does not follow the King, as the *King's Bench* formerly did. It holds Pleas of all Civil Cauſes at Common Law, between Subject and Subject, in Actions real, perſonal and mixt. Com. Pleas.

Real Actions, ſuch as concern Inheritance, by which Fines and Recoveries paſs, and all others by Original Writ; Perſonal Actions of Things tranſitory, as Money, Goods, Chattel Perſonal, *&c.* Mixt Actions partaking of the Nature of both, as *Ejectione firmæ*, *Quare Impedit*, *Waſte*, wherein is recovered not only the Land, or Perſonage, but likewiſe Damages

Com. Pleas. for Detainer, Disturbance in Presentation, *&c.* Actions popular, as *Decies tantum*, *Champerty*, *Maintenance*, &c. are cognizable by this Court. Actions Penal, as Actions for Debt, *&c.* upon any Statute which gives a Penalty for the Breach thereof to those who will sue for the same.

Regularly this Court cannot hold any Plea in Actions real, personal, or mixt, but by an Original Writ out of the Court of Chancery, returnable in this Court, unless it be by Bill, for, or against any Officer, or other privileged Person of the Court. Prohibitions to keep inferior Courts in due Bounds, *&c.*

In personal and mixt Actions, this Court, and the *King's Bench*, have for the most part a concurrent Jurisdiction, but none are admitted to plead at the Bar of this Court, but Serjeants at Law. This Court hath no Cognizance of Pleas of the Crown.

The Judges are,

Judges. The Lord Chief Justice, and three other Justices. Their Patents are *Quam diu se bene gesserint*, so long as they behave themselves well.

Clerks and Officers.

Custos brevium. The *Custos brevium*, (the Keeper of the Writs,) is the chief Clerk in this Court; he receives and keeps all Writs returnable here, filing each Return by itself, and at the End of every Term receives from the Prothonotaries

taries all the Records of *Niſi prius*, or *Poſtea's*, (which were firſt brought by the Clerk of Aſſize of every Circuit to the Prothonatory, who entered the Iſſue, who gets the Clerk of the Judgments to enter up Judgment thereon, and then the Prothonotary gets of the Court a peremptory Day for each Party to ſpeak in Arreſt of Judgment; which being paſt, he enters the *Verdict* and *Judgment* thereon in the Rolls of Court.) and at the End of every Term, the Clerk of the Judgments delivers to the *Cuſtos brevium*, all Records of *Niſi Prius* come in that Term, who filing the Records together carries them into the Treaſury of the Records. He alſo enters the Writs of Covenant, and Concords of all Fines, and makes out Exemplifications and Copies of all Writs and Records thereupon; and alſo the Foot of every Fine filed with him, after every Fine is ingroſſed: The Parts thereof are divided between him and the Chirographer, whereof the Chirographer keeps the Writ of Covenant, and the Note of the Fine, and the *Cuſtos brevium* keeps the Concord, and the Foot thereof, on which Foot the Chirographer cauſes the Proclamations to be indorſed, when they are proclaimed. Com. Pleas.

The Prothonotaries of this Court are three, and each in his Office enters and inrolls all Declarations, Pleadings, Aſſizes and Judgments, and all other Entries of the Clerks and Attornies belonging to each of the Offices, the ſame Term the Appearance, *&c.* is made. They make out all judicial Writs, *Venire Facias*, *Habeas Corpus*, *Writ of Execution and Seizin*, *Writs of Privilege*, to remove Cauſes from *Prothonotaries.*

Com. Pleas inferior Courts, where the Party has Cauſe of Privilege, and *Habeas Corpus cum Cauſa*, *Procedendo*, *Scire Facias*, *Writs of Inquiry of Damages*, and all Proceſs upon *Prohibitions*, *Audita Querela's*, *Falſe Judgment*. They alſo inroll all Recognizances acknowledged here, (except Recognizances on Bail, and Original Writs, which is done by the Filacer,) and all common Recoveries, and may make Exemplifications of any Record of the ſame Term, before the Rolls are delivered out of their Hands.

Secondaries. Each Prothonotary has a Secondary, who are Aſſiſtants to them in the Execution of their Office.

Clerk of the Warrants. The Clerk of the Warrants enters all Warrants of Attorney for Plaintiff and Defendant, and all Deeds of Indenture of Bargain and Sale, acknowledged in Court, or before any Judge thereof out of Court, and Eſtreats in the Exchequer all Iſſues, Fines, and Amerciaments, which any Way grow due to the King in this Court.

Clerk of the Eſſoins. The Clerk of the Eſſoins keeps the Roll thereof, wherein he enters them, and exemplifies Non-Suits and Eſſoins, for which certain Fees are appointed. He alſo provides Parchment, and cuts it into Rolls, marking the Numbers thereon, which he delivers out, and receives again, after they are written, and makes them up in Bundles or Files each Term.

The Filacers There are ſeveral Filacers, among whom the ſeveral Counties in *England* are divided; they make out all Meſne Proceſs, between the Original Writ and the Declaration; but where

where it is an Attachment, or Bill of Privilege, Prohibition or the like, that is wholly in the Prothonotary's Office; and where the Defendant is ſummoned, or re-ſummoned, they iſſue out Diſtreſs infinite 'till Appearance. They make out all Writs of *View*, and Writs of *Superſedeas*, where the Defendant appears in their Office after a *Capias* awarded; they may alſo enter Imparlances, or General Iſſues, where the Appearances are entred with them, and Judgments by Confeſſion thereupon, before Iſſue joined, and Writs of Execution on the ſame; but if it be after a Verdict, though they enter the Iſſue, yet the Prothonotary muſt enter the Judgment. *Com. Pleas.*

The Exigenters are four, who make all *Exigents and Proclamations*, in order to an Outlawry. *Exigenters.*

The Clerk of the Juries makes out all *Habeas Corpora Juratorum*, for ſummoning Juries to appear either in Court, or at the Aſſizes, after the Panel is returned by the Sheriff on the *Venire Facias*, and enters in his Rolls the Awarding of the ſaid Writs, and makes all Continuances 'till the Verdict is given. *Clerk of the Juries.*

The Chirographer, by his Deputy, ingroſſeth all Fines upon Writs of Covenants, and maketh a perpetual Record thereof after they are paſſed through the other Offices; and makes and delivers Indentures of them to the Parties: And another Part, called the *Foot of the Fine*, containing the Effect thereof, he makes and delivers to the *Cuſtos brevium*. He alſo by himſelf, or Deputy, proclaims all the Fines in Court every Term, according to the *Chirographer.*

Com. Pleas. Statute, and then repairing to the *Cuſtos Brevium* Office, he there indorſes the Proclamations on the Foot, and always keeps the Writ of Covenant, and the Note of the Fine.

Clerk of the King's Silver. The Clerk of the King's Silver, to whom all Fines are brought, after they have been with the *Cuſtos Brevium*; he alſo enters by Way of Abſtract in a Paper-Book, the Subſtance of the Writ of Covenant, according to which Notes all Fines are entered on Record in the Rolls of the Court every Term.

Clerk of the Errors. The Clerk of the *Errors*, who certifies into the Court of King's Bench all Records upon *Writs of Error* returnable in that Court; he alſo makes all Writs of *Superſedeas*, *Non Moleſtando*, *&c.* granted for the Defendant pending a Writ of Error.

Clerk of the Treaſury. The Clerk of the *Treaſury* hath the keeping of the Records of the Court, and makes up and ſeals all Records of *Niſi Prius*; takes Fees for all Searches in the Treaſury, and makes all Exemplifications of Records lodged in the Treaſury; and all Copies of *Iſſues*, *Imparlances and Judgments*; and of all *Informations and Recognizances on Record*, in the Treaſury: He is a Servant of the Lord Chief Juſtice, and removeable at his Pleaſure.

The Officers before-mentioned are for Life.

Clerk of the Seal. The Clerk of the Seal ſeals all Writs Judicial and Miniſterial, and alſo of the *Meſne Proceſs* made by the Filacers; alſo Writs of Outlawry and *Superſedeas*, and all Patents and Exemplifications, and takes Fees for the ſame.

Clerk of the Outlawry. The Clerk of the Outlawries is only a Servant to the Attorney General for making out the *Capias Utlegatum* after Outlawry; and the

the Attorney General's Name is to every one of these Writs. Com. Pleas.

The Clerk of the Inrolments returns all Writs of Covenant upon all Fines whatsoever; as also all Writs of Entry, Summons and Seisin, upon common Recoveries, as Deputy on Record, appointed by the Court for all the Sheriffs of *England*. He also inrolls all Fines and Recoveries with every Writ and Entry belonging thereunto severally; and at the Request of the Party exemplifies the same. *Clerk of the Inrolments.*

Proceedings in the Common Pleas.

IN the Court of *Common Pleas*, a young Clerk will have but little to do in filling up Writs for the first Process, there being proper Officers for that Purpose, as the Cursitors, Filacers, *&c.* But before we proceed to such Things as will be his chief Employment, it may be proper to observe, that you must first consider whether you are to hold the Defendant to special Bail or not; for if he is to be arrested, the Plaintiff must make an Affidavit of his Cause of Action, as before directed in the Practice of the King's Bench; but if the Defendant is only to be served with a Copy of the Process, you make out a Note (commonly called a *Præcipe*) for the Office in this Manner.

Com. Pleas. *Præcipe for a* Clausum fregit.

Somersetshire, to wit, Ca. for *A. B.* against *C. D.* late of *B.* in your County, Yeoman, and *G. H.* late of *T.* in your County, Gent'.

Returnable in fifteen Days from the Day of *Easter*.

W. O. 12th of *April* 1739.

This *Præcipe* serves both for the Original and *Ca.* being delivered to the Filacer of the Court. ——The Original is the Warrant to the *Ca.* and the Return of the Original is the Teste of the said *Ca'*.

The Filacer having the *Præcipe* maketh out the Writ or Process in the following Manner.

N. B. { You can but have one Plaintiff in a Writ, except in a Joint Action.

A Capias ad Respondendum.

A Clausum fregit.

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriff of *S.* greeting: We command you that you take *C. D.* late of *B.* in your County, Yeoman *, and *G. H.* late of *T.* in your County, Gent. if they may be found in your Bailiwick, and them safely keep, so that you may have their Bodies before our Justices at *Westminster* (from † the Day of *Easter* in fifteen Days,) To answer to *A. B.* of a Plea, wherefore

* *When there is but one Defendant to be put in this Writ, it being generally of the plural Number, add* John Doe *or* Rich. Roe.

† *Or any other Return.*

wherefore with Force and Arms the Close of the said *A.* at *T.* they broke, and other Wrongs to him did, to the great Damage of the said *A.* and against our Peace *. And have you there this Writ. Witness —— at *Westminster* the ——† Day of *February* in the —— Year of our Reign. Com. Pleas.

Martin.

* *When an Action is Bailable, the* Acetiam *is here inserted.*

† *The Teste of the Writ, if in Term, is the first Day of the same Term; in Vac. the last Day of the precedent Term.*

You are served with this Process to the Intent that you may by your Attorney appear in his Majesty's Court of Common Pleas at the Return thereof, being the —— Day of —— in Order to your Defence in this Action.

W. 12th of *April* 1739.

	l.	*s.*	*d.*
N. B. If the Filacer maketh out the Writ and finds the Stamp, you pay him for the first four Defendants	00	3	8
And for every four afterwards,	00	1	0
Then at the Seal Office in the *Inner-Temple-Lane* for sealing it	00	0	7

In all Cases where the Action is not Bailable a Copy of the Process shall be personally served on the Defendant, with a Notice thereunder written of the Intent of such Service. 12 Geo. 1. ch. 29.

If the Defendant cannot be served a Copy of the *Ca.* before the Return thereof, make out a *Præcipe* for a *Capias by Continuance* in the like Manner as before, only instead of saying Ca. say Cont. for, *&c.* Præcipe *for a Continuance.*

Then

Com. Pleas. Then the ſame Filacer makes out a another Writ in the ſame Manner as before,

	s.	d.
For which you pay	2	4
And for every *Poſt terminum*	0	4
And for Sealing at the Seal Office	0	7

And if not ſerved with a Copy of this *Con.* make out another *Con. &c.* 'till you have ſerved him.

Acetiam Ca. ad Reſpondendum.

WHEN your Action is bailable, and you have got an Affidavit to hold to Bail, make out a *Præcipe* in the following Manner.

Præcipe *for an* Acetiam Ca.

S. to wit. Ca. for *A. B.* againſt *C. D.* late of —— in your County, Yeoman for 100 *l.* (* upon Promiſe) Bail for 50 *l.*

* *or* (*Debt*) *W.* 12th of *May* 1741. Returnable in three Weeks from the Day of the *Holy Trin'.*

An Acetiam Ca. ad Reſpondend'.

Acetiam *againſt one Defendant in Caſe.*

George, (*&c. as before to*) againſt our Peace —— And alſo that the ſaid *C.* may anſwer the ſaid *H.* according to the Cuſtom of our Court of Common Bench (in a certain Plea of Treſpaſs on the Caſe, upon Promiſe, to the Damage

mage of the ſaid *A.* of 100 *l.* And have you, *&c.* (*as before*). Com. Pleas.

In Debt ſay (in a certain Plea of Debt upon Demand for 100 *l.*) *Againſt one Defendant in Debt.*

And alſo that they (*or* the ſaid *C. E.* and *G.*) may ſeparately anſwer the ſaid *A. B.* according, (*&c.*) to wit, the ſaid *C.* in a certain Plea of Treſpaſs on the Caſe upon Promiſe, to the Damage of the ſaid *A.* 20 *l.* the ſaid *E.* in the like Plea, to the Damage of the ſaid *A.* 40 *l.* and the ſaid *G.* in a certain Plea of Debt upon Demand, for 100 *l.* And have you, *&c.* (*as before*). *One Plaintiff againſt ſeveral Defendants, ſome for Debt and ſome Caſe.*

And alſo that they may ſeparately anſwer the ſaid (*Plaintiff*) according, (*&c.*) in a certain Plea of Debt upon Demand, for —— *l.* *Againſt two Defendants when their Debts are equal, as againſt Obligors in a Bond, &c.*

And alſo that the ſaid *A. B.* may anſwer the ſaid *P. C.* and *J.* his Wife, the ſaid *J.* being Executrix of the laſt Will and Teſtament of *M. L.* her late Husband deceas'd, according to the Cuſtom, (*&c.*) *At the Suit of Husband and Wife, the Wife being Executrix of her former Husband.*

As before, only inſtead of ſaying Executrix, *&c. ſay* Adminiſtratix of the Goods and Chattels of *M. L.* *The like, the Wife being Adminiſtratrix.*

—— In a certain Plea of Treſpaſs on the Caſe for converting the Goods and Chattels of the ſaid *A.* to the Value of —— *l.* And have you there, *&c.* *In Trover.*

How

Com. Pleas.

How the Sum ſworn to is to be indorſed.

If againſt ſeveral, and the Sums are unequal, ſay

Take Bail for *C.* 20 *l.*
D. 10 *l.*
E. 100 *l.*
As by Affidavit filed.

But if the Sums are equal ſay,

Take Bail for 100 *l.* ſeparately, as by Affidavit filed.

This is the preſent Practice; but formerly the Method of ſuing out the firſt Proceſs was as follows, (which may be of Uſe in drawing Inſtructions for ſpecial Originals, *&c.* therefore I ſhall not omit it.)

The Inſtructions for the firſt commencing a Suit in the Court of Common Pleas was by *Præcipe* and *Pone*, which was to be drawn on Paper after the following Manner, and it ſerved both for the *Original* and the *Capias*, being delivered to the Filacer of the County.

The Original is the Warrant to every *Capias*, and the Return of the Original is the Teſt of the *Capias*: But if you ſet down the Return of your *Capias*, the Filacer of Courſe took Care for the reſt.

Of

Of Precipe's.

A Special Præcipe *in Debt.*

Middleſex, to wit, **Command** *C. D.* late of *Weſtminſter*, Gent. (*otherwiſe called, if neceſſary,*) that he render to *A. B.* forty Pounds, which he owes him and unjuſtly detains.

Capias returnable in the Morrow of *All Souls.*

Daniel Reading.

Note; If it it be upon a Specialty, as Bond, Bill, *&c.* you muſt draw your *Præcipe* with an *Alias dict'*, as in the Bond or Bill, literally; or if it be upon an Indenture the *Alias dict'* muſt be recited literally as in the Indenture. *Alias dictus.*

The Special Capias *in Debt.*

George the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* **To** the Sheriff of *Middleſex*, Greeting: **We** command you, that you take *C. D.* late of *Weſtminſter* in your County, Gent. (*otherwiſe called*, &c.) if he may be found in your Bailiwick, and him ſafely keep, ſo that you may have his Body before our Juſtices at *Weſtminſter* on the Morrow of *All Souls*, to anſwer to *A. B.* Gent. of a Plea, that he render to him forty Pounds, which

Com. Pleas. which he owes him and unjuſtly detains, as it is ſaid; And have there this Writ. Witneſs Sir *R. Eyre*, Knt. at *Weſtminſter* —— Day of —— in the ſixth Year of our Reign.

Reading. *Eyre.*

In a Writ you may have four Defendants, yet you can have but one Plaintiff, unleſs it be in a joint Action.

If you would have ſeveral Defendants in one Original, draw your *Præcipe* thus:

Middleſex, to wit, Command *C. D.* late of *Iſlington* in your County, Gent. (*otherwiſe called*, &c.) that he render to *A. B.* fifty Pounds. Command *E. F.* late of, (*&c.*) that he render, (*&c.*) forty Pounds.

Returnable on the Morrow of *All Souls*.

The Special Capias *thereupon.*

George, (*&c.*) To the Sheriff of *Middleſex*, Greeting: We command you, that you take *C. D.* late of *Iſlington* in your County, Gent. (*otherwiſe called*, &c.) and *E. F.* late of, (*&c.*) if they may be found in your Bailiwick, and them ſafely keep, ſo that you have their Bodies before our Juſtices at *Weſtminſter* in the Morrow of *All Souls*, to anſwer to *A. B.* of a Plea, that the aforeſaid *C.* render to him fifty Pounds, which he owes him and unjuſtly detains: And that the aforeſaid *E.* render to him forty Pounds, which he owes him and unjuſtly detains, as it is ſaid: And have, (*as before.*)

Note, That all *Præcipe's quod reddat* are finable, if above forty Pounds to a hundred Marks, ſix Shillings and eight Pence; from a hundred Marks to a hundred Pounds, ten Shillings, and ſo on; for which, ſee the Proceedings by Original in the King's Bench. Com. Pleas.

If you would avoid the Fine, draw a *Pone* for a *Capias* only in Debt after this Manner:

Pone *in Debt.*

Middleſex, to wit, If *A. B.* make, *&c.* put, *&c. C. D.* late of *Iſlington* in your County, Gent. And alſo in Debt for forty Pounds: Returnable in the Morrow of *All Souls*.

The Capias *thereupon.*

George, (&c.) To the Sheriff of *Middleſex*, Greeting: We command you, that you take *C. D.* late of *Iſlington* in your County, Gent. and *John Doe*, if they may be found, *(as before)* to anſwer unto *A. B.* of a Plea, wherefore with Force and Arms they broke the Cloſe of him the ſaid *A. B.* at *Weſtminſter* and other Enormities to him did, to the great Damage of him the ſaid *A. B.* and againſt our Peace; And alſo that the aforeſaid *C.* may anſwer to the ſame *A.* according to the Cuſtom of our Court of Common Bench, in a certain Plea of Debt upon Demand of forty Pounds: And have, *&c.*

If

Com. Pleas. *If* Alias *or* Pluries Capias, *you ſay*, We command you as we have before (*or* oftentimes) commanded you, that you take, *&c.*

Pone *in Caſe for Book-Debts, Promiſes*, &c.

Middleſex, to wit, If *A. B.* make, *&c.* put, *&c. C. D.* late of, *&c.* And alſo in Caſe for twenty Pounds: Returnable on the Morrow of *All Souls.*

The Capias.

George, &c. To the Sheriff of, *&c.* And alſo that the aforeſaid *C.* may anſwer to the ſame *A.* according to the Cuſtom of our Court of the Common Bench, in a certain Plea of Treſpaſs upon the Caſe upon Promiſe, to the Damage of him the ſaid *A.* twenty Pounds: And have, *&c.*

But if you have three or four Defendants who are indebted in ſeveral Sums of ten Pounds, or above, to the Plaintiff, both in Debt and Caſe, you ſay,

And alſo ſeparately to anſwer the ſame *A. B.* according to the Cuſtom of our Court of Common Bench, (to wit) the aforeſaid *C.* in a certain Plea of Treſpaſs upon the Caſe upon Promiſe, to the Damage of him the ſaid *A.* forty Pounds; the aforeſaid *E.* in the like Plea, to the Damage of him the ſaid *A.* twen-

ty Pounds: And the aforeſaid *G.* in a certain Plea of Debt upon Demand, for twenty Pounds; And have, *&c.* Com. Pleas.

Pone *in Treſpaſs.*

Middleſex, to wit, If *A. B.* make, *&c.* put, *&c. C. D.* late of *W.* in your County, Gentleman, *E. F. G. H. J. K. L. M.* of a Plea, wherefore with Force and Arms they broke the Cloſe of him the ſaid *A.* at *W.* and other Enormities to him did, to the great Damage of him the ſaid *A.* and againſt the Peace, *&c.* *You are not limited to any Number of Defendants in a* Clauſum fregit.

Returnable in three Weeks of *Trinity.*

Or thus, in ſhort,

Broke the Cloſe at *W.* Returnable in three Weeks of *Trinity.*

The Capias.

George, &c. To the Sheriff of *M.* Greeting: We command you, that you take *C. D.* late of, *&c.* (*as before*) in three Weeks from the Day of the Holy *Trinity*, to anſwer *A. B.* of a Plea, wherefore with Force and Arms they broke the Cloſe of him the ſaid *A.* at *W.* and other Enormities to him did, to the great Damage of him the ſaid *A.* and againſt our Peace, *&c.*

Upon this *Clauſum fregit* you may declare as you pleaſe, it being only to bring the Party into Court.

Com. Pleas. *Note*; If you have an Occaſion to proſecute by *Qui tam* upon a penal Statute, ſome *Filacers* inſiſt that 'tis fineable.

But upon a *Latitat* in the *King's Bench* no Fine is demanded, and 'tis made only in Treſpaſs. See before.

No *Qui tam* holds to ſpecial Bail.

Præcipe *in Aſſault and Battery.*

London, to wit, If *A. B.* make, *&c.* put, *&c. C. D.* late of *L.* Yeoman, of a Plea, wherefore with Force and Arms he made an Aſſault upon him the ſaid *A.* at *L.* and him did beat, wound and evilly treat, ſo that he deſpaired of his Life, and other Enormities to him did, to the great Damage of him the ſaid *A.* and againſt the Peace, *&c.*

Or in ſhort,

Of a Plea of Treſpaſs and Aſſault: Returnable in three Weeks of St. *Michael.*

Capias *in Aſſault.*

George, &c. To the Sheriff of *L.* Greeting: We command, *&c.* (*as before*) to anſwer *A. B.* of a Plea, wherefore with Force and Arms he made an Aſſault upon him the ſaid *A.* and him the ſaid *A.* at *L.* did beat, wound and evilly treat, ſo that he greatly deſpaired of his Life, and other Enormities to him did, to his great Damage and againſt our Peace, *&c.* And have, *&c.*

If you would have ſpecial Bail upon Aſſault and Battery, a ſpecial Writ will not do it, though the Damages are laid to the Damage of One hundred Pounds; but the Way is for the Plaintiff to make Affidavit of the ſpecial Damages, and get a Judge's Hand to it for inſerting an *Acetiam*, (*and alſo*) in the common *Clauſum fregit*, but a ſpecial Writ may haſten the Trial. Com. Pleas.

Præcipe *in Covenant.*

Middleſex, to wit, **Command** *C. D.* late of *J.* in the County aforeſaid, otherwiſe called (*as in the Indenture*) to anſwer to *A. B.* of a Plea, that he perform to him the Covenants between them made, according to the Force, Form and Effect of certain Indentures between them executed: Returnable, *&c.*

Capias *in Covenant.*

George, &c. **To** the Sheriff of *Middleſex*, Greeting: **We** command, *&c.* (*as before*) before our Juſtices at *Weſtminſter* in the Morrow of *All Souls*, of a Plea, that he perform to him the Covenants between them made, according to the Force, Form and Effect of certain Indentures between them executed, *&c.* And have, *&c.*

If a Defendant lives within a Liberty which the Sheriff cannot enter upon a *Capias*, you may get the Filacer of the County to make

Com. Pleas. out a *Non omittas* directed to ſuch Liberty where the Defendant reſides, without your having a *Capias* firſt from him.

The Non Omittas.

George, &c. **To** the Sheriff of *Suſſex*, Greeting: **We** command you, that you do not omit becauſe of any Liberty of Saint *Etheldred* in your County, but you take (*Defendant*) *&c.* if they ſhall be found in your Bailiwick, *&c.* (*as in others*) and againſt our Peace: And alſo, (if any, *as in others*): And whereupon you yourſelf hath certified to our Juſtices at *Weſtminſter*, at a certain Day now paſt, that the Bailiff of the Liberty aforeſaid, to whom (by Virtue of our Writ to you thereof directed) you have commanded, that he ſhould take the aforeſaid (*Defendant*) gave you no Anſwer thereto; And have, *&c.*

Præcipe *in Account as Receiver.*

Surrey, to wit, **Command** *C. D.* late of *E.* in the County aforeſaid, Gent. That he render to *F G.* his reaſonable Account for the Time which he was Receiver of the Money of him the ſaid *F. &c.*

If a Bailiff, then as before to —— for the Time in which he was Bailiff of him the ſaid *F.* in *E. &c.*

If a Bailiff and Receiver then —— for the Time which he was his Bailiff in *E.* and Receiver of the Money of him the ſaid *F. &c.*

In

In Detinue.

Somerſet, to wit, **Command** *C. D.* late of *E.* in the County aforeſaid, Yeoman, that he render unto *F. G.* one Mare, one Cow, (*as the Caſe requires*) of the Price of ten Pounds, which he unjuſtly detains from him, *&c.*

In Annuity.

Somerſet, to wit, **Command** *C. D.* late of *E.* in the County aforeſaid, Yeoman, that he render unto *F. G.* one hundred Pounds which are in Arrear to him of a certain annual Rent of fifty Pounds, which to him he owes and unjuſtly detains, *&c.*

In Ejectment.

Middleſex, ſs. If *A. B.* makes, *&c.* then put, *&c. C. D.* late of *E.* in the County aforeſaid, Yeoman, to anſwer the aforeſaid *A. B.* of a Plea, wherefore with Force and Arms he entered into one Meſſuage and twenty Acres of Land, with the Appurtenances, in *E.* which *F. G.* to the aforeſaid *A.* demiſed for a Term which is not yet paſſed, and ejected him from his Farm aforeſaid, and other Wrongs, *&c.* to the great Damage, *&c.* and againſt the Peace, *&c.*

But this is not uſed now, the Way being to deliver a Declaration to the Tenant in Poſſeſſion, as you may obſerve hereafter.

Com. Pleas.

A ſpecial Original to continue an Action, &c. *This is made out by the Curſitor.*

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriff of *Middleſex*, Greeting: If *A. B.* ſhall make you ſecure in proſecuting his Claim, then put by Gage and ſafe Pledges *J. M.* late of the Pariſh of Saint *Anne*, *Weſtminſter* in your County, Gentleman, that he may be before our Juſtices at *Weſtminſter* in the Morrow of the Purification of the Bleſſed *Mary*, to ſhew that whereas the aforeſaid *John*, on the twelfth Day of *February* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at the Pariſh of Saint. *Giles in the Fields*, was indebted to the aforeſaid *George* in Forty Pounds of lawful Money of *Great Britain*, for diverſe Goods, Wares and Merchandizes to the ſame *John* by the ſame *George*, at the ſpecial Inſtance and Requeſt of him the ſaid *John*, before that Time ſold and delivered; and being ſo indebted he the aforeſaid *John*, in Conſideration thereof, afterwards, to wit, the ſame Day, and Year and Place aforeſaid, took upon himſelf, and to the ſame *George* then and there faithfully promiſed, that he the aforeſaid *John* the ſame forty Pounds, when he ſhould be thereto afterwards required, well and faithfully would pay and ſatisfy to the ſaid *George*: And whereas alſo the aforeſaid *John*, the ſame twelfth Day

Day of *February* in the Year aboveſaid, in Conſideration that the aforeſaid *George*, at the ſpecial Inſtance and Requeſt of him the ſaid *John*, before then had ſold and delivered to the ſame *John* for the Uſe of the Earl of *M.* divers Parcels of Wine to the Value of other forty Pounds, took upon himſelf, and to the ſame *George* then and there faithfully promiſed, that he the aforeſaid *John* the ſame forty Pounds laſt mentioned, when thereto afterwards required, would likewiſe well and faithfully pay and content to the ſaid *George*: Yet the aforeſaid *John* his ſeveral Promiſes and Aſſumptions aforeſaid in Form aforeſaid made in no wiſe regarding, but contriving and fraudulently intending the ſame *George* in this Behalf craftily and ſubtilly to deceive and defraud, the aforeſaid ſeveral Sums of Money, or any Part thereof, to the ſame *George* he hath not yet paid, nor him for the ſame any Way contented, although to do this the aforeſaid *John* afterwards, to wit, the ſame Day, Year and Place aboveſaid, and oftentimes afterwards by the ſame *George* he had been required, but that to him hitherto to pay, or for the ſame any Way to content, hath altogether refuſed, and ſtill doth refuſe, to the Damage of him the ſaid *George* one hundred Pounds, as it is ſaid; And have there the Names of the Pledges, and this Writ. Witneſs Ourſelf at *Weſtminſter* the ſeventeenth Day of *June* in the ſixth Year of our Reign. Com. Pleas. *Or* 99 l. *to mitigate the Fine.*

Note; When the Teſte of a Writ will come before the Cauſe of Action, the beſt Way is to ſue a general Writ, and afterwards a ſpecial

Com. Pleas. Original may be had to warrant the Judgment; but this is not intended of a ſpecial *Capias* from the Filacer for Trial at the next Aſſizes, which is yet but a *Capias*, and may want the Original Memorandum. Writs returnable in *London* and *Middleſex*, and Declaration thereupon, now the Defendant muſt plead to Trial the ſame Term.

If you intend to go to Trial the ſame Term your Writ is returnable, then make a ſpecial *Præcipe* thus:

A ſpecial Præcipe *in Caſe.* *Middleſex*, to wit, If *A. B.* ſhall make, *&c.* put, *&c. C. D.* late of *W.* in the County aforeſaid, Yeoman, of a Plea that whereas the aforeſaid *C. (ſetting forth ſpecially the whole Subſtance of your intended Declaration)* to the Damage of him the ſaid *A.* 50*l.* Returnable on the Octave of St. *Hillary.*

The ſpecial Capias thereupon.

George the Second, (*&c.*) To the Sheriff of *Middleſex*, Greeting, *(as before)* to anſwer unto *A. B.* of a Plea, that whereas (*ſetting forth the whole Cauſe of Action, as in the* Præcipe) to the Damage of him *A.* 50*l.* as it is ſaid; And have, *&c.*

If the Defendant lives in the Country, as for Inſtance in *Berks*, and you would try the Cauſe in another County, to wit, in *Suffolk*, the Filacer of *Suffolk* will, upon your carrying him the following *Præcipe*, of Courſe make out a common *Teſtatum* into the County of *Berks*, with-

without your firſt taking out a *Capias* in *Suffolk*. Com. Pleas.

Suffolk, to wit, If *A. B.* ſhall make, &c. put, &c. *C. D.* late of, &c. And alſo for 40 *l.* upon an Aſſumption. It is atteſted thereupon to the Sheriff of *Berks*, of the Treſpaſs at *Bury*. Returnable, &c. *The* Præcipe.

The Form of a common Teſtatum.

George, &c. To the Sheriff of *Berks*, Greeting, &c. (*as in others*) to anſwer unto *A. B.* of a Plea, wherefore with Force and Arms he broke the Cloſe of the ſaid *A.* at *Bury St. Edmonds*, &c. and againſt our Peace, and alſo, (&c.) to the Damage of him the ſaid *A.* 40 *l.* And whereupon our Sheriff of *Suffolk* hath made a Return to our Juſtices at *Weſtminſter*, at a certain Day now paſt, that the aforeſaid *C.* is not to be found in his Bailiwick; and thereupon it is teſtified in our ſaid Court, that the aforeſaid *C* hides, wanders, and skulks in your County; And have, &c.

But if you would go to Trial the ſame iſſuable Term your Writ is returnable of, but not in the County where the Defendant lives, then draw a ſpecial *Præcipe* for a *Capias* into the County where you would try the Cauſe, ſubſcribing at the Bottom *Teſtatum* thereupon, to the Sheriff of the County where the Defendant lives; carry this to the Filacer of the County where you would try your Cauſe, and he will make out the following ſpecial *Teſtatum*.

George

Com. Pleas. George, &c. To the Sheriff of the County, (*where the Defendant lives*) Greeting, &c. (*as before, and setting forth the Cause of Action at large,*) to the Damage of him the said *A.* 100 *l.* as it is said, and whereupon our Sheriff of the County, (*where you try the Cause, and so on, as in a common* Testatum.)

In all Cases where a *Capias* is special, as in *Covenant*, *Debt*, *Trespass*, *Case*, &c. reciting the Cause of Action at large, it is fineable if 40 *l.* or above. And if the special *Capias* be made returnable the first Return in *Trinity* and *Hillary*, or the first or second in *Easter* and *Michaelmas*, the Defendant must plead in four Days after the Declaration is delivered, if a Rule be given to plead, and a Plea demanded; but in a Country Cause, the Court, or a Judge, will indulge the Defendant in a farther Time to plead, on the Defendant's agreeing to plead an issuable Plea, and to accept of short Notice of Trial for the next Assizes.

Of Arrests.

WHEN your Writ is Bailable, you carry it to the Undersheriff, who makes out a Warrant thereupon after the following Manner, *viz.*

Sheriff's Warrant. *Dorset*, to wit, T. S. Esq; Sheriff of the County aforesaid, To the Keeper of the Gaol of the said County, and also to *R. A. R. H. J. H.* and *R. E.* my Bailiffs, for this Cause only,

Greeting: By Virtue of the Writ of our Sovereign Lord the King to me directed, I command you, and every of you, jointly and severally, that ye take, or one of you take *W. D.* if he shall be found in my Bailiwick, and him safely keep, so that I may have his Body before the Justices of our Soverign Lord the King at *Westminster*, from the Day of the Holy Trinity in three Weeks, to answer to *C. D.* in a Plea of Trespass, and also in a certain Plea of ——— Com Pleas. *Take Bail for* 10*d.* *as by Affidavit filed.*

Given under the Seal of my Office the ——Day of——in the Year of our Lord

Writ issued the——} —Day of—1735. } By the same Sheriff.

Beware the Defendant be not privileged or protected.

Then deliver the Warrant to one of the Sheriff's Officers therein mentioned to arrest the Defendant.

If a Bailiff who hath a Warrant against a Man only say, I arrest you at the Suit of *A. B.* Plaintiff in the Writ, it is not sufficient, but the Officer must actually lay hold of him, or touch him, otherwise it is no Arrest. *Cro. Jac.* 486. *Salk.* 79. *Bailiff to touch Defendant, or it's no Arrest.*

If a Bailiff be kept off from making an Arrest, he shall have an Action of Assault; and where the Person arrested makes Resistance, or assaults the Bailiff, he may justify beating of him. *Bailiff kept off from arresting may have an Action of Assault, when he may beat Defendant.*

If

Com. Pleas. *Bailiff touches a Man, it's an Arreſt, and Attachment may iſſue againſt him.*

If a Bailiff touches a Man, which is an Arreſt, and he makes his Eſcape, it is a Reſcue, and Attachment may be had againſt him. 1 *Salk* 79.

Where a Houſe may be broke open to arreſt.

If a Bailiff lays hold of one by the Hand (whom he hath a Warrant to arreſt) as he holds it out at the Window; this is ſuch a taking of him, that the Bailiff may juſtify the Breaking open of the Houſe to carry him away. 1 *Vent.* 306.

Husband to appear for him and Wife.

If Husband is arreſted for any Act of the Wife under Coverture, he is bound to appear for himſelf and Wife; *per North* 20 *Oct.* 1679.

When Doors may be broke open.

When a Perſon has committed Treaſon or Felony, *&c.* Doors may be broke open to arreſt the Offender; but not in civil Caſes, except in Purſuit of one arreſted; or where a Houſe is recovered by a real Action to deliver Poſſeſſion to the Perſon recove ing. *Plow.* 5 *Rep.* 91.

An Arreſt in the Night is lawful.

An Arreſt in the Night as well as the Day is lawful. 9 *Rep.* 66. And every one is bound by the Common Law to aſſiſt not only the Sheriff in the Execution of Writs, and making Arreſts, *&c.* but alſo his Bailiff that hath his Warrant to do it. 2 *Inſt.* 193.

Every one is to aſſiſt the Bailiff in an Arreſt.

When Bailiff ought to ſhew his Warrant.

A Bailiff ought to ſhew his Warrant when the Party ſubmits himſelf to the Arreſt, if required. 6 *Rep.* 54. But it is ſaid a ſworn known Bailiff need not ſhew his Warrant. 9 *Rep.* 99.

Forfeiture of Sheriff granting a Warrant before he receives the Writ.

If a Sheriff grants a Warrant for an Arreſt before he receives the Writ, he ſhall forfeit 10 *l.* and Damages, and pay a Fine to the King. *Statute* 43 *Eliz. c.* 5.

If

If an Action is entered in one of the Compters of *London*, a City Serjeant may arreſt the Party without the Sheriff's Warrant. 1 *Lill. Abr.* 94. Com. Pleas. *When a Serjeant may arreſt without Warrant.*

And by the Cuſtom of *London* a Debtor may be arreſted before the Money is due, to make him find Sureties; but not by the Common Law. 1 *Nelſ. Abr.* 258. *Debtor may be arreſted before Money due.*

By Stat. 29 *Car.* 2. *c.* 7. No Writ, Proceſs, Warrant, *&c.* (except in Caſes of Treaſon, Felony, or for Breach of the Peace) ſhall be ſerved on a *Sunday*; on Pain that the Perſon ſerving them ſhall be liable to the Suit of the Party grieved, and anſwer Damages, as if the ſame had been done without Writ: An Action of falſe Impriſonment lies for Arreſt on a *Sunday*, and the Arreſt is void. 1 *Salk.* 78. But a Perſon may be retaken on a *Sunday*, where arreſted the Day before, *&c. Mod. Ca.* 231. *The Penalty of a Perſon ſerving Proceſs, Warrant, &c. on a* Sunday.

And a Man may be taken on a *Sunday* on an Eſcape Warrant, where he goes at large out of the Rules of the King's Bench or Fleet-Priſon, *&c. Stat.* 5 *Ann. c.* 9. *When a Perſon may be taken on a* Sunday.

Alſo Bail may take the Principal on a *Sunday* and confine him 'till *Monday*, and then render him, tho' a Plaintiff may not arreſt the Defendant on a *Sunday*. 1 *Nelſ.* 258.

If a wrong Perſon is arreſted, or one for Felony where no Felony is done, *&c.* it will be a falſe Impriſonment liable to Damages. *Falſe Impriſonment lies for one wrongfully arreſted.*

Attornies, *&c.* for Vexation, maliciouſly cauſing a Perſon to be arreſted, where there is no Cauſe of Action, *&c.* the Proſecutors ſhall ſuffer ſix Months Impriſonment, and before diſcharged pay treble Damages, and forfeit 10 *l. Stat.* 8 *Eliz. c.* 2. *Penalty, &c. of malicious Arreſts without Cauſe.*

No

Com. Pleas.

Bailiff not to take Defendant when arrested to any House to charge him with Liquor contrary to Defendant's Will.

No Bailiff or other Officer shall carry any Person under an Arrest to a Tavern, Alehouse, *&c.* without his Consent; so as to charge him with any Beer, Ale, Wine, *&c.* but what he shall freely call for: Nor shall demand or receive more from him for the Arrest or Waiting than by Law ought to be, until an Appearance procured, Bail found, *&c.* Nor take or exact any more for keeping such Person out of Prison, than what he shall of his own voluntary Accord truly give; nor take more for Lodging than what is reasonable, or shall be adjudged so by the next Justice of Peace. *Stat.* 22 *&* 23 *Car.* 2. *c.* 2.

What Bailiff is to take of Defendant for keeping him out of Prison, &c.

Who may be arrested.

Peers of the Realm, Members of Parliament, *&c.* may not be arrested unless it be in criminal Cases, but the Process against them is to be a Summons, Distress infinite, *&c.* 12 *W.* 3. *c.* 3.

Also Corporations and Companies must be made to appear by *Distringas*, and cannot be arrested. *Finch* 353. 3 *Salk.* 46.

Persons attending upon any Courts of Record, on Business, are to be free from Arrests. 3 *Inst.* 141.

A Clerk of the Court ought not to be arrested for any Thing which is not criminal, because he is supposed to be always present in Court to answer the Plaintiff. 1 *Lill.* 94.

Arrests are not to be made within the Liberty of the King's Palace: Nor may the King's Servants be arrested in any Place, without Notice first given to the Lord Chamberlain, that he remove them, or make them pay their Debts.

Ambas-

Ambassadors, or their Domestick Servants are not to be arrested. *Stat.* 7 *Ann. c.* 12. Com. Pleas.

In Cases which concern the King, or where the King is Party, and in criminal Causes the Sheriff's Officers may break open a Door to execute the Process, (after a Demand to open it, signifying the Cause of coming, and Refusal) tho' not in a civil Cause against a Subject: unless when an Execution, *&c.* is once lawfully begun, as where the Out-Doors are open, the Sheriff entering may proceed and break open Inner Doors. 5 *Rep.* 91. *Palm.* 53.

Upon an Arrest the Officers are to shew at whose Suit it is, and out of what Court the Writ issues, and for what Cause, *&c.*

By Stat. 9 *&* 10 *W.* 3. *chap.* 25. Every Officer or Clerk in the Courts of *Westminster* shall set down the Day and Year of his signing any Writ of Arrest upon such Writ, and duly enter the same, on Penalty of 10 *l.*

A Sheriff may arrest in a Liberty without *Non omit.* for he's Sheriff of the whole County; but the Bailiff of the Liberty may have his Remedy by Action for entring it. *Per Glyn, Mic.* 1658.

Of

Of Eſcapes.

A Perſon in Execution in the Cuſtody of the old Sheriff, not being turned over to the new Sheriff, if he Eſcapes, the old Sheriff, and not the new one, is chargeable: Tho' where a Sheriff dies in his Office, if any Priſoners eſcape before another is ſworn, this is no Eſcape againſt the Sheriff; the Priſoners on the Sheriff's Death are all *in Cuſtodia Legis* till there is a new Sheriff; and in theſe Caſes, when a new Sheriff is ſworn into his Office, he muſt take Notice of all Perſons in Execution, *&c.* as there is none to make a Delivery of them. 3 *Rep.* 72, 73.

The Sheriff ſhall not let a Perſon eſcape tho' on an erroneous Proceſs. *Cro. Jac.* 3, 289.

One eſcaping from his Bail may be taken on a Sunday.

The Bail may take up the Principal on a *Sunday*, and confine him till the next Day, and then render him. 6 *Mod.* 231. *& vide poſt.*

Of Bail and Bail-Bond.

Bail to the Sheriff for Appearance.

WHERE the Defendant is arreſted, the Sheriff's Officer takes a Bail-Bond for the Defendant's Appearance at the Return of the Writ, and within ſuch Time limited by the Rules, the Defendant muſt put in other Bail to the Action as hereafter mentioned.

A Sheriff may take an Appearance-Bond with one or more Sureties, or let the Defendant go without Sureties; for the Bond is only for the Sheriff's Indemnity. *Cro. Eliz.* 808.

Sheriff may take a Bail-Bond with Sureties, or let the Defendant go without.

But the Sheriff ſhall take no Bond of Perſons arreſted but for Appearance, *&c.* under the Penalty of 40 *l.* 23 *H.* 6. *chap.* 8.

But no other Bond.

If a Sheriff takes a Bail-Bond of two good Men of viſible Eſtates at the Time of taking it, and they afterwards become inſolvent, the Sheriff ſhall be excuſed; becauſe he is obliged to let to Bail on good Security; and if the Sheriff refuſe to take good Bail, Action lies againſt him. 2 *Lill. Abr.* 511. *Sid.* 22. *Cro. Eliz.* 76.

He's obliged to let to let to Bail on good Security.

The Sheriff being obliged to let the Defendant to Bail, and to return a *Cepi*, no Action lies againſt him for not having the Body at the Day; and Return of *Paratum habeo, &c.* is in effect no more than that he had the Body to bring in when the Court ſhould command him ſo to do, and he is to be amerced till he doth it. 1 *Mod.* 239.

For that Reaſon no Action lies againſt him for not having the Body at the Day.

A Plaintiff may direct the Officer to take a Bond of the Defendant in his the Plaintiff's Name, to give Security for the Payment of the Debt, or render his Body to Priſon, *&c.* but the Sheriff cannot take a Bond in another Man's Name to elude the Statute. 2 *Mod.* 304.

An Officer by Plaintiff's Direction may take a Bond of Defendant for Security of the Debt.

A Bond with a Condition, that a Man ſhall continue a true Priſoner, till he is lawfully diſcharged, is good. 1 *Saund.* 161.

A Bond with a Condition to be a true Priſoner is good.

Com. Pleas. But an Action of Debt on a Sheriff's Bond conditioned, that the Defendant ſhall be a true Priſoner; the Defendant pleaded, that he was in Execution for Debt, and that the Bond was given for Eaſe and Favour, and to obtain his Liberty without ſatisfying the Plaintiff in that Action; and to this Plea the Sheriff demurred; and it was held, that the Plea was good, without pleading the Statute 23 *Hen. 6.* becauſe it is a general Law, of which the Court muſt take Notice; but if it was not, the Bond is void at Common Law. 2 *Lev.* 103. 3 *Nelſ. Abr.* 224.

A Defendant was taken upon on Attachment of Contempt, and the Sheriff took a Bail-Bond in 40 *l.* for his Appearance, but he did not appear; whereupon the Sheriff was amerced, and the Proſecutor refuſed to accept an Aſſignment of the Bail-Bond; and reſolved that he might refuſe it, and proceed againſt the Sheriff; and if the Bond was ſufficient, the Sheriff might put it in Suit, and re-imburſe himſelf. 2 *Salk.* 608.

A Bond for Appearance, given to the Sheriff before the Delivery of the Writ, held good. 1 *Keb.* 554. *pl.* 6.

Where the Court will bail in an Appeal of Murder.

The Court took Bail for a Priſoner againſt whom an Appeal of Murder was brought, becauſe he did not fly for the Murder ſuppoſed, and had been formerly indicted for this Murder, and acquitted upon the Indictment, (*Mich.* 22 *Car. B. R.*) upon which Preſumptions they conceived he was Not guilty, elſe they would not have bailed him.

If an Action is brought againſt Husband and Wife, and the Husband only is arreſted; yet the Husband muſt put in Bail for the Wife, if the Name of the Wife be in the Writ; elſe he is not bound to put in Bail for her. (22 *Car. B. R.*) For it is the Writ that warrants the Bail. *See ante 28.*

Com. Pleas. Action againſt Husband and Wife; Bail muſt be put in for the Wife if ſhe be named in the Writ.

But where the Wife is arreſted, ſhe ſhall not be compelled to cauſe Bail to be put in for her Husband, but ſhe may file the common Bail, and have a *Superſedeas* to diſcharge her, provided the Writ did not require ſpecial Bail.

What the Wife muſt do in Caſe ſhe be arreſted.

If Plaintiff be nonſuited, and afterwards commences a new Action for the ſame Cauſe of Action, he ſhall not have ſpecial Bail in the ſecond Action, tho' he might have inſiſted on it in the firſt.

Plaintiff after Nonſuit ſhall not have ſpecial Bail on new Action for the ſame Cauſe of Action.

Of Appearances.

IN all Caſes where the Defendant is ſerved with a Copy of a Proceſs of this Court, the Action requires only a common Appearance to be entered with the Filacer * of the Court where the Writ iſſued, if it be entered for the Defendant, giving him a Note after this or the like Form:

* *Reg. Cur.* 24 *Car.* 2.

S. (to wit) I appear (by *M. N.*) for *C. D.* at the Suit of *A. B.*

Note of Appearance.

Ca' ret. 3 Mich.

Pleadwell, 7 June 1740.

Com. Pleas. The Filacer enters it in the Appearance-Book, for which you pay 2 *s.*

N. B. It is common for the Defendant's Attorney (*or* Agent) to deliver the Plaintiff's Attorney (*or* Agent) a Notice of Appearance after this Manner:

Notice of Appearance.

Mr. *G.*

I appear for *C. D.* at the Suit of *A. B.* and will accept of a Declaration.

7th *June* 1740. Yours *P. P.*

Shower 165. The Defendant may appear either in proper Perſon or by Attorney: But if Defendant be under Age, then *per Guardianum* or *proximum Amicum.*

If the Defendant appears by his Attorney, it is neceſſary that the Defendant give him

A Warrant of Attorney to appear, &c.

Mr. *P. P.*

Warrant to appear, &c. I Do hereby deſire and impower you to appear for me in the Court of *Common Pleas* at *Weſtminſter*, in an Action of —— at the Suit of *A. B.* and to plead therein the General Iſſue, or ſuch other Plea as you ſhall think fit; and I hereby promiſe to pay you your Fees and Diſburſements. Witneſs my Hand,

May 24. 1735. *C. D.*

In

In *London* and *Middlesex* Defendant must enter Appearance within four Days after the Appearance-Day to the Return of the Writ. Com. Pleas. *What Time Defendant must appear.* *Hill.* 6 *Geo.* 1.

And in any other County within eight Days after the Appearance-Day in every Writ; otherwise the Plaintiff, on Affidavit of the Service of the Process, may enter an Appearance for the Defendant (according to the late Act), and proceed in the Action, as if Defendant had entered an Appearance for himself. *Per Reg. Cur. Hill.* 6 *Geo.* 2.

Note; Upon a Writ of Privilege Appearance must be entered with the Prothonotary, out of whose Office the Writ issued.

An Affidavit of the personal Service of Copy of a Capias.

In the Common Pleas.

Between { A. B. *Plaintiff*, *and* C. D. *Defendant*. } *Double* 6 d. *Stamp.*

E. F. (Clerk to *G. H.*) of —— in the County of —— Gent. maketh Oath, that he this Deponent, on the —— Day of —— last past, personally served the above named Defendant with a true Copy of a Writ of *Capias*, appearing to this Deponent to be issued out of this Honourable Court, against him the said Defendant at the Suit of the above-mentioned Plaintiff, which said *Capias* was returnable at —— And at the same Time this

Com. Pleas. Deponent ſhewed unto the ſaid Defendant the ſaid Writ it ſelf; and upon which ſaid Copy, ſo as aforeſaid ſerved by this Deponent, was ſubſcribed an *Engliſh* Notice of the Intent of ſuch Service.

E. F.

Sworn —— at the —— Day of — in the Year of our Lord ——, before me M.N. *a Commiſſioner.*

This Affidavit muſt be carried to, and left with the Filacer of the Court in which the Writ iſſued, who will thereby enter the Appearance, for which you pay 2 *s.* and for every *Poſt terminum* 4 *d.* more.

Note; If the Affidavit be of the Service of two Copies (or more) againſt two (or more) Defendants, you pay the Filacer for entring the Appearance, if jointly, 2 *s.* for firſt Defendant, and 4 *d.* more for every other Defendant; if ſeparately, 2 *s.* for every Defendant.

When Appearance is entered, the next Thing (in the Plaintiff's Proceedings) is drawing the Declaration, concerning which ſee **Declarations** *poſt.*

Of

Of Bail.

IN putting in Bail in the *Common Pleas* before a Judge, when the Action is laid in *London* or *Middlesex*, you must do it within four Days after the Return of the Writ, otherwise the Bail-Bond may be assigned; and if it be at the Suit of a privileged Person, the Prothonotary's Clerk is to go with you before a Judge, for which you pay him his Fee, three Shillings and Four-pence; but if it be at the Suit of another Person, then the Filacer of *London* and *Middlesex*, or his Clerk, will attend the Judge with you, to put in Bail, which is done by an Entry in his Book, and not by a Bail-Piece. *When put in*

On the Absence of the Filacer Bail may be taken at the Judge's Chambers, you bringing a true Abstract of the Writ, by Notice fixed up in the Judge's Chambers. *Hill.* 8 *Geo.* 2.

Com. Pleas.

The Form of a Bail-piece on a Cepi Corpus.

Michaelmas Term 14 *Geo.* 2.

Surry, to wit, On a *Capias* againſt *C. D.* late of —— in the County aforeſaid. —— Returnable *In fifteen Days from the Day of St.* Michael, at the Suit of *A. B.* of a Plea of Treſpaſs; and alſo in a Plea of Treſpaſs on the Caſe upon Promiſe, to the Damage of the ſaid *A.* —— *l.*

The Bail are *E. F.* of —— in the County aforaſaid——
and
G. H. of —— in the County aforeſaid ——

A. B. Attorney for the Defendant.

The Party himſelf in 20 *l.*
Each of the Bail in 10 *l.*

Taken, *&c.*

Bail

Bail may be excepted againſt within twenty Days after put in. Com. Pleas. *Exceptions againſt Bail.*

Defendant muſt perfect his Bail within four Days after Exception, or the Bail-Bond may be aſſigned. *Reg. Cur. Trin.* 3 & 4 *Geo.* 2. *Perfecting Bail.*

If the Bail be taken before Commiſſioners in the Country, it muſt be done purſuant to the following Rules and Orders, and tranſmitted to one of the Judges, and ſigned by him in ſuch Time, and afterwards filed with the proper Filacer in ſuch Manner as the following Rules direct, otherwiſe the Bail-Bond may be aſſigned.

ORDERS to be obſerved by Commiſſioners impowered by Commiſſion, in Purſuance of an Act of Parliament for taking ſpecial Bail in the Country, upon Actions and Suits depending in his Majeſty's Court of Common Pleas *at* Weſtminſter.

Firſt, It is Ordered, That before any Bail be taken by Virtue of the ſaid Act, a true * Copy of the Writ on Parchment, to which the Defendant is to put in Bail, ſhall be brought to the Commiſſioner before whom ſuch Bail is to be taken, and thereupon the Recognizance, or Bail-Piece, ſhall be fairly drawn and ingroſſed on the ſaid Parchment Copy, in this or the like Form, as the Caſe ſhall be, to wit,

* *'Tis uſual to make only an Abſtract of the Writ.*

Thomas

Com. Pleas.

Thomas Hand, Attorney for the Defendant.

The Bail are *John Denn* of *Black-Barneſly* in the Pariſh of *Settle* in the County of *Eſſex*, Gentleman, and *Richard Fenn* of the ſame, Gentleman.

The Party himſelf in 20 *l.*
Each of the Bail in 10 *l.*

Taken and acknowledged the tenth Day of *March* in the Year of our Lord One thouſand ſeven hundred and thirty-one, *de bene eſſe*, before me *A. B.* one of the Commiſſioners.

If the Defendant be not preſent, then the Bail are uſually bound in double the Sum in the Writ, otherwiſe only ſingle.

The Condition of which Recognizance ſhall be to this Effect, to wit,

You (*naming the Defendant, if preſent*) do acknowledge to owe unto the Plaintiff twenty- Pounds, and you (*naming the Bail*) do ſeverally acknowledge to owe unto the ſame Perſon the Sum of ten Pounds a-piece, to be levied upon your ſeveral Goods and Chattels, Lands

ands and Tenements, upon Condition, that the Defendant be condemned in the ſaid ction, he ſhall pay the Condemnation, or nder himſelf a Priſoner in the *Fleet* for the me; and if he fail ſo to do, you (*naming e Bail*) do undertake to do it for him. Com. Pleas.

Secondly, It is Ordered, That the Affidavit f the due taking of every ſuch Bail ſhall be ade either before ſome Judge of the *Com-on Pleas*, to whom the Bail ſhall be tranſ-itted, or before ſome Perſon who ſhall have ower to take Affidavits in Matters and Cauſes epending in the ſaid Court.

Thirdly, It is Ordered, That all Bails, ta- *Bail taken within forty Miles of* London, *tranſmitted in ten Days.* en by any Commiſſioner within the Diſtance f forty Miles from the Cities of *London* and *Veſtminſter*, ſhall be tranſmitted to the Lord hief Juſtice of the Court of *Common Pleas*, r to one of the Juſtices of the ſaid Court, ithin ten Days after the Taking thereof; nd all Bails, taken by any Commiſſioner a-ove the Diſtance of forty Miles from the id Cities of *London* and *Weſtminſter*, ſhall be ranſmitted within twenty Days after the taking hereof, unleſs all the ſaid Judges ſhall be in heir Circuits; and then as ſoon as any of them hall be returned to *London* out of his Circuit. *If above forty Miles, in twenty Days.*

Fourthly, Alſo every Commiſſioner is to ave a Book kept purpoſely for entering ex-ctly the Names of the Defendant and his ail, and of the Plaintiff, as it is in the Bail-iece, and the Time of the taking thereof, nd the Name of him by whom ſuch Bail hall be tranſmitted.

Fifthly, It is further Ordered, That the laintiff's Attorney ſhall be at Liberty to re-

Com. Pleas. pair to the Commiſſioner's Book for the Names of the Bail, to the End that they may inquire of the Sufficiency of them; and if they are found inſufficient, they may except againſt them within twenty Days after the ſaid Bill is tranſmitted, and Notice to the Plaintiff, or his Attorney, of the Taking thereof; and in that Caſe the Defendant muſt either put in better Bail, or the Cognizors of ſuch Bail muſt juſtify themſelves in open Court, either by Affidavit taken before ſuch Commiſſioner that took the ſaid Bail, or by Oath made in Court, or by one of the Judges of the ſaid Court.

Plaintiff may except againſt Bail within twenty Days after.

George Treby, } { *John Powell,*
Edward Nevill, } { *Thomas Rokeby.*

See before for the Time of perfecting Bail.

When ſpecial Bail-Piece to be filed.

By a Rule made *Hill. 6 Geo.* 1. It is further Ordered, That all Bail-Pieces, taken within ſuch reſpective Diſtance as is above directed, ſhall be tranſmitted within the Time above limited, and after ſuch Tranſmiſſion ſhall be forthwith delivered to and filed with the proper Officer, to be entered upon Record, or otherwiſe it ſhall be as no Bail; and the Plaintiff is at Liberty to proceed on the Sheriff's Bail-Bond, as if no ſuch Bail were ever put in; and the Defendant in Caſe he be admiſſible to plead to the original Action, ſhall not be admitted ſo to do, unleſs he firſt pay the full Coſts to the Plaintiff for the Proſecution on the Bail-Bond, and plead as of the

Time

Time when the Bail ſhould have been duly entered. Com. Pleas.

And by a Rule made *M.* 13 *Geo.* 1. All Bails taken before Commiſſioners, tranſmitted to and allowed by one of the Judges of this Court, muſt be delivered to the Clerk of ſuch Judge, which Clerk muſt take the Fees due to the proper Officer for the Entry thereof, and muſt forthwith deliver the ſaid Bail to be filed and pay the ſaid Fees to ſuch proper Officer: And Notice of taking Bail muſt be given within four Days after the Caption thereof. *Notice of Bail.*

And alſo by another Rule made *M.* 6 *Geo.* 2. ſuch Bails muſt be tranſmitted and filed according to the Rule *H.* 6 *Geo.* 1. and muſt not be received or filed unleſs ſo tranſmitted, without Leave of the Court.

In the Treaſury, the Judges refuſed to order a Bail-Piece to be filed, twenty Days being elapſed ſince the Caption; But on a Motion, on the Defendant's Attorney's Affidavit that he received the Bail-Piece in due Time, but it was omitted to be filed by his Clerk's Neglect, the Court ordered it to be received and filed. *Trin.* 7 & 8 *Geo.* 2. *C. B.* v. c. Barnes 65.

If the Defendant does not put in ſpecial Bail (when required by theſe Rules) you may get the Sheriff to aſſign over his Bond, and take out the *Capias* upon it, a Copy of which you perſonally ſerve on the Defendant. *Of aſſigning Bail-Bond.*

Of

Of Declarations.

Of delivering Declarations, ſee the late Rule 13 Geo. *if the Plaintiff appeared for the Defendant.*

THE next Thing is to provide for the Declaration, ſeveral Forms whereof you will find hereafter. If you arreſt the Defendant and cannot find his Attorney, you may deliver the Declaration to the Defendant himſelf, or you may leave it in the Office; but it is requiſite you ſhould give the Defendant, or his Attorney when you find him, Notice, that you have left ſuch Declaration in the Office.

Vide the King's Bench for Inſtructions for drawing Declarations. Of laying the Venue, the Day, and of different Counts, *&c.*

By Rule of Court, 9 Ann.

If a Writ be returnable the firſt, or any other Return in any Term, the Plaintiff hath Liberty 'till the End of the next enſuing Term, to deliver his Declaration to the Defendant's Attorney, or of leaving the ſame in the Office, and the Defendant's Attorney having entered his Appearance with the proper Officer, as of that Term in which the Proceſs is returnable; and at the End of the enſuing Term, or or in four Days after the End thereof, having given a Rule to declare in the proper Office, and called on the Plaintiff's Attorney, if he can be found, the Defendant, at any Time in the Vacation of ſuch enſuing Term, (after the Rule for declaring is out) may ſign his *Non Pros.* for want of a Declaration, and not afterwards; and the Plaintiff ſhall not without Leave of the Court have any longer Time to declare in that as aforeſaid, other than the Time to be limited by the Defendant's Rule.

How long Plaintiff hath to declare in.

Otherwiſe Defendant may ſign a Non Proſ.

A De

A Declaration muſt be demanded by a Note in Writing. *Per Notice fixt up in the Offices.* *M.* 5 G. 2. Com. Pleas.

Term. Mich. 1 Geo. II.

To eſtabliſh the Practice of this Court upon the late * Act of Parliament for preventing frivolous and vexatious Arreſts; It is Ordered, That from and after the laſt Day of this preſent Term, in all Cauſes where a Copy of the Proceſs of this Court is ſerved upon any Defendant or Defendants, and an Appearance is entered for ſuch Defendant or Defendants by the Plaintiff's Attorney, purſuant to the ſaid Act, the Plaintiff's Attorney in ſuch Caſe ſhall leave a Copy of the Declaration in the Office, and likewiſe give Notice thereof to the Defendant or Defendants, by delivering an *Engliſh* Notice written in Secretary Hand to ſuch Defendant or Defendants, or by leaving the ſame at the laſt or moſt uſual Place of Abode of ſuch Defendant or Defendants, ſignifying the Nature of the Action, at whoſe Suit it is proſecuted, and in whoſe Office ſuch Declaration is left; and that in Caſe of ſpecial Writs, returnable the firſt Returns of *Hillary* and *Trinity Terms*, and the firſt or ſecond Returns in *Eaſter* and *Michaelmas Terms*, ſuch Defendant or Defendants ſhould take Notice, that unleſs ſuch Defendant or Defendants plead to ſuch Action within * Four Days after the Appearance-Day of the Return of ſuch Writ, and in Caſe of a common *Capias*, or any other ſpecial Writ, within the firſt Four Days of the next Term, Judgment

* *Stat.* 12 Geo. *cap.* 29.

Of filing Declaration when Appearance is entred per Stat'.

* *But ſee the Rules hereafter mentioned.*

Com. Pleas. Judgment will be entered againſt ſuch Defendant or Defendants by Default.

And from the Time of giving ſuch Notice as aforeſaid, ſuch Declaration ſhall be deemed well delivered to ſuch Defendant or Defendants, and not otherwiſe.

And in Caſe ſuch Defendant or Defendants, after ſuch Notice given, do not plead by the Time the Rules for Pleading are out, the Plaintiff in ſuch Caſe may ſign his Judgment (a Rule to plead being firſt given) without any other or further calling for a Plea, and thereon give Notice of executing his Writ of Inquiry, either by delivering Notice in Writing to ſuch Defendant or Defendants, or by leaving the ſame at the laſt or moſt uſual Place of Abode of ſuch Defendant or Defendants, which ſhall be a ſufficient Notice to ſuch Defendant or Defendants of the Time of executing ſuch Writ of Inquiry.

Notice in Writing of executing a Writ of Inquiry, given to the Defendant, or left at his laſt or uſual Abode ſufficient.

After the laſt Day of this Term, the Rule of Trinity *Term diſcharged.*

And it is further Ordered, That from and after the laſt Day of this preſent Term, the Rule made the laſt Trinity Term, to eſtabliſh the Practice of this Court upon the ſaid late Act of Parliament, ſhall be diſcharged.

R. Eyre, Rob. Price, Alex. Denton, S. Cowper.

When to plead. And *per Reg. Cur. Mic.* 3 *G.* 2. Upon all Proceſſes of this Court, returnable the 1ſt or 2d Return of any Term, if the Plaintiff declares in *London* or *Middleſex*, and the Defendant lives within 20 Miles of *London*, the Defendant muſt plead within four Days after the Declaration is delivered without an Imparlance, and

ſuch Declaration may be delivered *de bene eſſe*. Com. Pleas.
And if the Plaintiff declares in any other County, or the Defendant lives above 20 Miles from *London*, the Defendant muſt plead within eight Days after the Declaration delivered without an Imparlance; and in Default of pleading, as aforeſaid, the Plaintiff may ſign Judgment.

And *per Reg. Cur. Paſ.* 3 *G.* 2. Declarations to be delivered with Notice for the Defendant to plead within the ſame Times mentioned in the laſt Rule. The Notice is uſually indorſed on the Back of the Declaration thus:

The Defendant is to plead hereto in four (or eight) Days, (as the Caſe is.)

Declarations in the Common Pleas.

In Debt.

Trinity the 14*th of King* George *the Second.*

Somerſet, to wit, C. *D.* late of *O.* in the County aforeſaid, Gent. otherwiſe called *C. D.* of *O.* in the County of *Somerſet*, Gent. was ſummoned to anſwer unto *A. B.* Gent. (*if at the Suit of the Sheriff, or late Sheriff, ſay*, to anſwer unto *E. F.* Eſq; Sheriff, *or* late Sheriff of the County aforeſaid,) of a Plea, that he render to him 100 *l.* which he owes him, and unjuſtly detains, *&c.* And whereupon the ſame *A.* by *G. H.* his Attorney ſaith, that **whereas** the aforeſaid *C.* the —— Day of —— in the —— of the Reign of the *Declaration in Debt on a* Bond.

Com. Pleas. Lord the now King, at *O.* by his certain Writing Obligatory, acknowledged himſelf to be held and firmly bound to the ſame *A.* (*if for the Sheriff ſay*, to be held and firmly bound to the ſame *E.* then being Sheriff of the County aforeſaid, by the Name of *E. F.* Eſq; Sheriff of the County of *S.* aforeſaid,) in the aforeſaid 100 Pounds, to be paid to the ſame *A.* when he ſhould be thereto required: Yet the aforeſaid *C.* although often required, hath not yet rendered to the ſame *A.* the aforeſaid 100 *l.* but hath hitherto refuſed, and ſtill doth refuſe, to render the ſame to him; wherefore he ſaith, That he is injured, and has Damage to the Value of 20 *l.* And therefore brings his Suit, *&c.* And he brings into Court here the aforeſaid Writing, which teſtifies the Debt aforeſaid, in Form aforeſaid; the Date whereof is the Day and Year aboveſaid, *&c.*

If the Defendant be in Cuſtody in any County-Gaol, no Notice is taken thereof. (*See before in the King's Bench otherwiſe.*)

Note; The Common Pleas, when they deliver Declarations upon Bond, uſually add the *Li. L o.* thus:

Imparlance. And the aforeſaid *C.* by *T. H.* his Attorney, comes and defends the Force and Injury, when, *&c.* and prays Oyer of the Writing Obligatory aforeſaid; and it is read to him, *&c.* He alſo prays Oyer of the Condition of the ſame Writing; and it is read to him in theſe Words, to wit, (*The Condition*, &c. *to the End*;) which being read and heard, the ſame *C.* prays leave to imparl therein here until the Morrow of

of the *Holy Trinity*; and it is granted to him, *&c.* The ſame Day is given to the Parties aforeſaid here, *&c.* Com. Pleas.

Note; But if the Plaintiff does not give the Defendant *Oyer* of the Bond, he may demand it, and refuſe to plead until he has it: But if he will neglect to crave *Oyer*, it is his own Fault, which ought not to prejudice the Plaintiff, for the Plaintiff is not obliged to give him *Oyer*, unleſs he demands it. The Defendant may plead without *Oyer* of the Bond, if he thinks fit, in making up the Iſſue by *Non eſt factum*, no Notice is taken of the Imparlance, or Condition.

The Imparlance, or Li. Lo. *to other Declarations is only thus:*

And the aforeſaid *C.* by *T. H.* his Attorney, comes and defends the Force and Injury, when, *&c.* and prays Leave to imparl therein here until the Morrow of the *Holy Trinity*; And it is granted to him, *&c.* The ſame Day is given to the aforeſaid *E.* here, *&c.*

And ſometimes they only write thus:

Li. Lo. until Trinity Term, or at the firſt Day of the next Term, *per* Hand, (*Naming the Defendant's Attorney.*)

Note; If it be an Imparlance for an Attorney, or privileged Perſon, it muſt be to a Day certain.

Com. Pleas.

Note alſo, That a Special Imparlance *is worded thus:*

Special Imparlance. **And** the aforeſaid *C.* by *T. H.* his Attorney, comes, and ſaving to himſelf all Advantages, as well to the Writ as to the Declaration aforeſaid, prays Leave to imparl therein, *&c.* (*as before.*)

Upon an Emiſſet, *or for Goods bought.*

Somerſet, to wit, A. *B.* late of *T.* in the County aforeſaid, Gent. was ſummoned to anſwer *F. F.* in a Plea, that he render to him 20 *l.* which he owes to him, and unjuſtly detains, *&c.* And whereupon the ſame *E.* by *Daniel Reading* his Attorney ſaith, That **whereas** the aforeſaid *A.* (*ſuch a Day and Year*) at *D.* in the County aforeſaid, had bought of the ſame *E.* one Mare for the aforeſaid 20 *l.* to be paid to the ſame *E.* when he ſhould be thereto requeſted; **Yet** the aforeſaid *A.* (although often requeſted,) hath not rendered to the ſame *E.* the aforeſaid 20 *l.* but to render the ſame to him he hath hitherto refuſed, and ſtill doth refuſe: Wherefore he ſays that he is injured, and has Damage to the Value of 20 *l.* And therefore brings his Suit, *&c.*

Upon

Com. Pleas.

Upon a Mutuatus, *or Money borrowed.*

(Which is commonly uſed u pona Warrant of Attorney, to confeſs a Judgment without a Bond.)

Cooke.

Somerſet, to wit, A. *B.* late of *K.* in the County aforeſaid, Gent. was ſummoned to anſwer *E. F.* of a Plea, that he render to him 100 *l.* which he owes him, and unjuſtly detains, *&c.* And whereupon the ſaid *E. F.* by *D. R.* his Attorney ſaith, That **whereas** the aforeſaid *A.* (*ſuch a Day and Year,*) at *D.* in the ſaid County, had borrowed of the ſaid *E.* the aforeſaid 100 *l.* to be paid to the ſame *E.* when he ſhould be thereto requeſted; **Yet** the ſaid *A.* (although often requeſted,) hath not yet rendred the aforeſaid 100 *l.* to the ſame *A.* but hath hitherto refuſed to render the ſame, and ſtill doth refuſe; wherefore he ſaith, That he is injured, and hath Damage to the Value of 20 *l.* and therefore he brings his Suit, *&c.*

Mutuatus *upon a Warrant of Attorney to confeſs a Judgment.*

I am not informed by *T. H.* (*naming the Attorney for the Defendant by the Authority of the Warrant.*) Then you ſign Judgment with the Prothonotary, Fee three Shillings: Then enter up the Judgment by *Non Informatus*, &c.

It is neceſſary upon this Account to have a Releaſe of Errors.

Vide Title **Rolls** and **Judgments** poſtea.

For Money due upon Account.

Inſimul Computaſſet.

Somerſet, to wit, A. *B.* late of, (*&c.*) was ſummoned to anſwer *E. F.* of a Plea, that he render to him 50 *l.* which he owes him, and unjuſtly detains, *&c.* And whereupon the ſame *E.* by *D. R.* his Attorney, ſaith, That **whereas** the aforeſaid *A.* (*ſuch a Day and Year*,) at *C.* in the County aforeſaid had accounted with the aforeſaid *E.* of and concerning divers Sums of Money before that Time due and owing to the ſaid *E.* by the aforeſaid *A.* and upon that Account the aforeſaid *A.* was then and there found in Arrear towards the ſame *E.* in 50 *l.* by which an Action hath accrued to the ſame *E.* to recover and have of the aforeſaid *A.* the aforeſaid 50 *l.* **Yet** the aforeſaid *A.* (although often requeſted,) hath not rendered to the ſame *E.* the aforeſaid 50 *l.* but hath hitherto refuſed, and ſtill doth refuſe to render that to him: Wherefore he ſaith, That he is injured and hath Damage to the Value of 20 *l.* And therefore he brings his Suit, *&c.*

In Caſe ſur Aſſumpſit.

Upon a Mutuatus *for Money lent and advanced.*

Somerſet, to wit, A. *B.* late of, *&c.* was attached to anſwer *C. D.* of a Plea of Treſpaſs upon the Caſe, *&c.* and whereupon the ſame *C.* by *D. R.* his Attorney complains, That **whereas** the aforeſaid *A.* on the fifteenth Day of *June* in the ſixth Year of the Reign of the Lord *George* the Second, now King of *Great Britain*, &c. at *G.* in the ſaid County, in Conſideration that the ſame *C.* at the ſpecial Inſtance and Requeſt of the aforeſaid *A.* had lent and advanced to the aforeſaid *A.* 5 *l.* of lawful Money of *Great Britain*, aſſumed upon himſelf, and to the ſame *C.* then and there faithfully promiſed, that he, the ſame *A.* would well and truly pay and ſatisfy the ſaid 5 *l.* to the ſaid *C.* when he ſhould be afterwards thereto requeſted; **Yet** the aforeſaid *A.* not regarding his Promiſe and Aſſumption aforeſaid, but contriving and fraudulently intending the ſame *C.* in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid the aforeſaid 5 *l.* or any Part thereof to the ſame *C.* (although to do this, the aforeſaid *A.* afterwards, to wit, the ſame Day, Year and Place aforeſaid, and oftentimes afterwards, by the ſame *C.* hath been requeſted;) but to pay him the ſame he hath altogether refuſed, and ſtill

Com. Pleas. doth refuse, to the Damage of the said *C.* twenty Pounds; And therefore he brings his Suit, *&c.*

For Money had and received by the Defendant.

Indebitatus Assumpsit *upon a* Mutuatus.

As above unto —— That **whereas** the aforesaid *A.* the twelfth Day of *June* in the —— Year of the Reign of the Lord *George* the Second, the now King of *Great Britain*, *&c.* at *G.* in the said County, was indebted to the same *C.* in ten Pounds of lawful Money of *Great Britain*, for the like Sum of Money by the aforesaid *A.* of the same *C.* before that Time borrowed, had and received; and being so indebted the aforesaid *A.* in Consideration thereof afterwards, to wit, the Day and Year abovesaid, at *G.* aforesaid undertook, and to the same *C.* then and there faithfully promised, that he the aforesaid *A.* would well and faithfully pay and satisfy to the same *C.* the aforesaid ten Pounds, when he should be thereto afterwards requested: **Yet** the aforesaid *A.* not regarding his Promise and Undertaking aforesaid, *(as next before.)*

Declaration against one of the Indorsors of a Promissory Note.

Cooke. Easter *the Sixth of King* George *the Second.*

London, to wit, *C. D.* late of *London*, Esq; was attached to answer *A. B.* of a Plea of Trespass upon the Case, *&c.* and

and whereupon the ſaid *A.* by *D. R.* his Attorney complains, That **whereas** one *E. F.* after the firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred and five, to wit, the —— Day of *October* in the Year of our Lord One thouſand ſeven hundred and —— at *London* aforeſaid, to wit, in the Pariſh of the Bleſſed *Mary of the Arches* in the Ward of of *Cheap*, made his certain Note in Writing, commonly called a promiſſory Note, ſubſcribed with his own proper Hand, bearing Date the ſame Day and Year laſt aboveſaid, and by the ſame Note promiſed to pay the aforeſaid *C. D.* or Order, fifteen Pounds, one Month after Date of the ſame Note, for Value received: **And whereas alſo** afterwards, to wit, the —— Day of the ſame Month of —— in the Year of our Lord One thouſand ſeven hundred and —— aforeſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, the ſaid *C. D.* (the aforeſaid fifteen Pounds in the Note aforeſaid mentioned being unpaid to him,) by his certain Indorſement with his proper Hand indorſed upon that Note, ordered and appointed the Contents of the ſame Note, to wit, the aforeſaid 15 *l.* to be paid to one *G. H.* or his Order for Value received; which ſaid *G.* afterwards, to wit, the ſame Day, Year and Place aboveſaid, (the aforeſaid 15 *l.* being likewiſe unpaid to him,) by Indorſement with his proper Hand upon the ſame Note indorſed, ordered and appointed the Contents of the ſame Note, to wit, the aforeſaid fifteen Pounds, to be paid to one *J. K.* or his Order; which ſaid *J.* afterwards, to wit, the ſame Day, Year and Place laſt aboveſaid

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The Note.

Defendant's Indorſement to G. H. or Order.

G. H.'s Indorſement to J. K. or Order.

Com. Pleas.

J.K.'s *Indorſement to the Plaintiff.*

boveſaid, (the aforeſaid fifteen Pounds being likewiſe unpaid to him,) by Indorſement with his proper Hand upon the ſame Note indorſed, ordered and appointed the Contents of the ſame Note, to wit, the aforeſaid fifteen Pounds, to be paid to the aforeſaid *A.* for Value received: And the ſame *A.* avers, that after the ſeveral Indorſements and Appointments aforeſaid ſo as aforeſaid made, to wit, on the eighth Day of *November* in the Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, he did ſhew the Note aforeſaid, and the ſeveral Indorſements aforeſaid upon the ſame made, to the aforeſaid *E. F.* and then and there requeſted the aforeſaid *E. F.* to pay the Contents of the ſame Note, to wit, the aforeſaid fifteen Pounds in the ſame Note ſpecified, according to the Tenor and Effect of the ſaid Note, and the ſeveral Indorſements aforeſaid to the aforeſaid *A.* Yet the ſame *E. F.* hath not paid to the ſame *A.* the ſame fifteen Pounds, or ony Part thereof, but hath hitherto altogether refuſed, and yet does refuſe to pay him the ſame, or any Part thereof; whereupon the ſame *A.* afterwards, to wit, the ſame Day, Year and Place laſt aboveſaid, gave Notice thereof to the aforeſaid *C. D.* by reaſon of which ſaid Premiſſes, and by Force of the Statute in ſuch Caſe made and provided, the aforeſaid *C. D.* became liable, and yet is liable to pay to the ſame *A.* the aforeſaid fifteen Pounds in the ſame Note mentioned; and being ſo liable the ſame *C. D.* in Conſideration thereof afterwards, to wit, the ſame Day, Year and Place laſt aboveſaid undertook, and to the ſame *A.* then and there faith-

Notice to the Drawer of the ſeveral Indorſements, and Requeſt to pay.

Drawer refuſed to pay. Notice thereof to the Defendant.

faithfully promiſed, that he the ſame *C. D.* the aforeſaid fifteen Pounds to the ſame *A.* when he ſhould be afterwards thereto requeſted, would well and faithfully pay and content: **And whereas** the ſaid *C. D.* afterwards, to wit, the ſame Day, Year and Place laſt mentioned, was indebted to the ſame *A.* in other fifteen Pounds of lawful Money of *Great Britain*, for the like Sum of Money by the aforeſaid *C. D.* for the aforeſaid *A.* and to his Uſe before that Time had and received; And being ſo thereof indebted the ſame *C. D.* afterwards, to wit, the ſame Day, Year and Place laſt mentioned, in Conſideration thereof undertook, and to the ſame *A.* then and there faithfully promiſed, that he the ſame *C. D.* the aforeſaid fifteen Pounds laſt mentioned to the ſame *A.* when he ſhould be thereto afterwards requeſted, would well and faithfully pay and content: **And whereas alſo** the aforeſaid *C. D.* afterwards, to wit, the ſame Day, Year and Place laſt mentioned, was indebted to the ſame *A.* in other fifteen Pounds of like lawful Money, for the like Sum of Money by the ſame *A.* at the ſpecial Inſtance and Requeſt of the ſaid *C. D.* and to the Uſe and Behoof of the ſaid *C. D.* before that Time expended, laid out, diſburſed and paid; and being ſo thereof indebted, the ſame *C. D.* afterwards, to wit, the ſame Day, Year and Place laſt aboveſaid, in Conſideration thereof aſſumed upon himſelf, and to the ſame *A.* then and there faithfully promiſed, that he the ſame *C. D.* the ſaid fifteen Pounds laſt mentioned to the ſame *A.* when he ſhould be thereto afterwards requeſted, would well and faithfully pay and content:

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Indeb. Aſſumpſit *for Money had and received.*

For Money laid out and expended.

Com. Pleas. *For Money lent.*

content: **And whereas alſo** the aforeſaid *A.* afterwards, to wit, the ſame Day, Year and Place laſt mentioned, lent and advanced to the ſame *C. D.* and at his ſpecial Inſtance and Requeſt, another Sum of fifteen Pounds of like lawful Money, the ſame *C. D.* in Conſideration thereof took upon himſelf, and to the aforeſaid *A.* then and there faithfully promiſed, that he the aforeſaid *C. D.* the aforeſaid fifteen Pounds laſt mentioned, to the aforeſaid *A.* when he ſhould be thereto afterwards requeſted, would well and faithfully pay and content: **Nevertheleſs** the aforeſaid *C. D.* not regarding his ſeveral Promiſes and Undertakings aforeſaid in Form aforeſaid made, but contriving and fraudulently intending the aforeſaid *A.* in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid the aforeſaid ſeveral Sums of Money, or any Part thereof, to the ſame *A.* nor any way contented him for the ſame; (although to do this the aforeſaid *C. D.* afterwards, to wit, the ſame Day, Year and Place laſt aboveſaid, and oftentimes afterwards, was thereto requeſted;) but to pay him, or to make him any Satisfaction for the ſame, the ſaid *C. D.* hath hitherto altogether refuſed, and ſtill doth refuſe, to the Damage of him the ſaid *A.* fifteen Pounds; And therefore brings his Suit, *&c.*

On

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On a Promiſſory Note by an Indorſee againſt the Drawer.

Eaſter *the Sixth of King* George *the Second.* Cooke.

Middleſex, to wit, C. *D.* late of *Weſtminſter* in the County of *Middleſex*, Eſq; was attached to anſwer *A. B.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *A.* by *D. R.* his Attorney complains, That **whereas** the aforeſaid *C.* after the firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred and five, to wit, the tenth Day of *September* One thouſand ſeven hundred and thirty-one, at *Weſtminſter* aforeſaid in the County of *Middleſex* aforeſaid, made his certain Note in Writing, called a *Promiſſory Note*, with his proper Hand thereto ſubſcribed, bearing Date the ſame Day and Year laſt aboveſaid, and the ſame Note then and there to one *G. H.* delivered, by which ſaid Note the ſame *C. D.* promiſed to pay to the aforeſaid *G. H.* by the Name of Mr. *G. H.* or Order, One hundred Pounds, ſix Months after the Date of the ſame Note, for Value received: And the ſame *G. H.* afterwards, to wit, and within the aforeſaid ſix Months, to wit, the ſame Day and Year laſt aboveſaid, at *Weſtminſter* aforeſaid in the County aforeſaid, (the One hundred Pounds in the Note aforeſaid mentioned, or any Part thereof not being paid or ſatisfied,) by a certain Indorſement upon the Note aforeſaid made and written, and with the proper Hand of

Com. Pleas. of him the ſaid *G.* ſubſcribed, ordered and appointed the aforeſaid One hundred Pounds in the Note aforeſaid mentioned, to be paid to the ſaid *A.* and afterwards, to wit, the ſame Day and Year laſt aboveſaid, the ſame *C. D.* at *Weſtminſter* aforeſaid in the County aforeſaid, of the Indorſement aforeſaid had Notice; by Reaſon of the Premiſſes, and alſo by Force of the Statute in ſuch Caſe made and provided, the ſame *C.* became liable to pay to the ſame *A.* the aforeſaid One hundred Pounds in the Note aforeſaid mentioned, according to the Form and Effect of the ſame Note, and the Indorſement aforeſaid thereupon ſo as is aforeſaid made: And being ſo liable the aforeſaid *C. D.* in Conſideration thereof afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *Weſtminſter* aforeſaid in the County aforeſaid, aſſumed upon himſelf, and to the ſame *A.* then and there faithfully promiſed, to pay to him the ſaid *A.* the aforeſaid One hundred Pounds in the Note aforeſaid mentioned, according to the Tenor of the ſame Note and Indorſement aforeſaid: Yet the aforeſaid *C.* his ſeveral Promiſes and Aſſumptions aforeſaid, *&c.* (*as before*).

Another againſt the Drawer.

—— And wherefore the ſame *A.* by *D. R.* his Attorney complains, That whereas the aforeſaid *B.* after the firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred and five, to wit, the thirtieth Day of *May* One thouſand ſeven hundred and thirty-

one, at *Weſtminſter* in the County aforeſaid, made his certain Note in Writing, called a *Promiſſory Note*, ſubſcribed with his proper Hand, bearing Date the Day and Year laſt mentioned, and that Note to the ſame *A.* then and there delivered; by which ſaid Note the ſame *B.* promiſed to pay to the ſame *A.* or his Order, the Sum of ten Pounds in two Months after Date, (*or within the Space of two Months after Date,*) of the ſame Note, (*or upon Demand*, &c. *as by the Note:*) And by Reaſon whereof, and alſo by Force of the Statute in ſuch Caſe made and provided, the ſame *B.* became liable and chargeable to pay to the ſame *A.* the ſame Sum of Money, according to the Tenor of the Note aforeſaid: And being ſo liable and chargeable the aforeſaid *B.* in Conſideration thereof afterwards, to wit, the aforeſaid thirtieth Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-one aboveſaid, at *Weſtminſter* aforeſaid undertook, and to the ſame *A.* then and there faithfully promiſed, to pay to him the aforeſaid Sum of Money, according to the Tenor of the ſame Note; Yet the aforeſaid *B.* his Promiſes and Aſſumptions aforeſaid, *&c.* (*as before.*)

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As in the Note to Bearer, &c. *See Stat.* 3 & 4 Ann. c. 19. *and* Cornwall's *Tables.*

See before in the *King's Bench*, for a Declaration upon a Promiſſory Note.

For Goods and Merchandizes.

As above unto ——— Was indebted to the ſame *C.* in twenty Pounds of lawful Money of

Indebitatus Aſſumpſit.

Com. Pleas. of *Great Britain*, for diverſe Goods, Wares and Merchandizes by the aforeſaid *A.* to the ſame *C.* before that Time ſold and delivered; and being ſo indebted the aforeſaid *A.* afterwards, to wit, (*ſuch a Day and Year*) at *G.* aforeſaid, in Conſideration thereof undertook, *&c. Or thus:* And being ſo thereof indebted the ſame (*Defendant*,) in Conſideration thereof, afterwards, to wit, the ſame —— Day —— in the Year —— aboveſaid, at —— undertook, *&c.* (*as before.*)

Note; Theſe *Declarations* are uſually laid three Ways, to wit, *Indeb. Aſſumpſit*, for ten Pounds for Goods, Wares and Merchandizes; *Quantum Valebant*, for other ten Pounds; and *Inſimul Computaſſet*, for other ten Pounds, *&c.*

Inſimul Computaſſet *in Caſe.*

Was attached, *&c.* (*as before unto* ——) **whereas** the aforeſaid *A.* the firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-two, at, (*&c.*) had accounted together with the aforeſaid *C.* of and concerning diverſe Sums of Money before that Time due and owing from the ſaid *A.* to the ſame *C.* and upon that Account the ſame *A.* was then and there found in Arrear to the ſame *C.* in ten Pounds of lawful Money of *Great Britain*; and being ſo found in Arrear the aforeſaid *A.* in Conſideration thereof, afterwards, to wit, the ſame Day and Year, at *G.* aforeſaid, undertook, and to the ſaid *C.* then and

and there faithfully promiſed, that he the ſame *A.* would well and truly pay and ſatisfy the aforeſaid ten Pounds to the ſame *C.* when he ſhould be thereto afterwards requeſted: Yet the aforeſaid *A.* not in the leaſt regarding his Promiſe and Aſſumption aforeſaid, but contriving and fraudulently intending the aforeſaid *C.* in this Behalf craftily and ſubtilly to deceive and defraud, hath not yet paid the aforeſaid Sum of Money, or any Part thereof, to the ſame *C.* nor any wiſe contented him for the ſame, (although to do this the aforeſaid *A.* afterwards, to wit, on the ſame Day and Year aboveſaid, at *T.* aforeſaid, and oftentimes afterwards by the ſaid *C.* was requeſted;) but to pay or any Ways to content the ſaid *A.* for the ſame he hath hitherto altogether refuſed, and ſtill doth refuſe, to the Damage of the ſaid *C.* ten Pounds; And therefore he brings his Suit, *&c.* Com. Pleas.

Note; That upon ſeveral *Narrs*, (*Counts*) joined in one Declaration, it is convenient to leave out (*amounting to in the whole*) to prevent miſ-reckoning, which may prove erroneous.

See for the laying of ſeveral Promiſes in one Declaration in the *Declarations for the King's Bench*, which is the ſame in the *Common Pleas*, *mutatis mutandis*.

For an Executrix, &c. —— ſay —— To anſwer *A. B.* Widow, Executrix of the laſt Will and Teſtament of *G. H.* of a Plea, (*&c.*) And ſhe brings here in Court as well the Writing, *&c.* as the Letters teſtamentary, (*&c.*) *For an Executrix.*

Com. Pleas.

Declaration in Treſpaſs.

Berks, ſſ. C. *D.* late of *S.* in the County aforeſaid, Yeoman, was attached to anſwer unto *A. B.* of a Plea wherefore with Force and Arms he broke the Cloſe of the ſaid *A.* at *S.* and his Graſs, to the Value of forty Shillings, there lately growing, by walking with his Feet he trod down, conſumed and waſted, and his Corn and other Graſs, to the Value of one hundred Shillings, there lately growing, with certain Cattle depaſtured, he trod down and conſumed; and alſo his Gates and Stiles there lately erected he broke and pulled down, and the Wood of thoſe Gates and Stiles, ariſing to the Value of fifty Shillings, he took and carried away, and other Enormities to him did, to the great Damage of the ſaid *A.* and againſt the Peace of the Lord the now King, *&c.* And whereupon the ſame *A.* by *D. R.* his Attorney complains That the aforeſaid *C.* on the firſt Day of *Auguſt* in the fifth Year of the Reign of the Lord the now King, with Force and Arms, *&c.* the Cloſe, to wit, (*Here inſert the Cloſe wherein the Treſpaſs was committed.*) of him the ſaid *A.* at *S.* he broke, and his Graſs to the Value *&c.* there lately growing, with his Feet by walking trod down and conſumed; and his Corn, to wit, Oats, Barley, Rye, Wheat, Peaſe, Beans and other Corn, to the Value, *&c.* there lately growing, with certain Cattle, to wit, with Horſes, Oxen, Cows, Hogs, Calves and Pigs depaſtured, trod down and conſumed and

For breaking and pulling down the Gates and carrying away the Timber.

and alſo the Gates, to wit, two Gates and his Stiles, to wit, twenty Stiles there lately erected, he broke and pulled down; and the Wood, to wit, one Load of Wood ariſing from the ſaid Gates and Stiles, to the Value, *&c.* took and carried away by continuing the Treſpaſs aforeſaid, as to the treading down, waſting and conſuming of the Graſs aforeſaid, by walking with his Feet, and depaſturing, treading down and conſuming of the Corn and other Graſs afoarſaid, with the Cattle aforeſaid, from the aforeſaid firſt Day of *Auguſt* in the fifth Year aboveſaid, until the ſixteenth Day of *November* next following, at diverſe Days and Times, and other Enormities, *&c.* to the great Damage, *&c.* and againſt our Peace, *&c.* Wherefore he ſays he is injured, and hath Damage to the Value of ten Pounds; And therefore he brings his Suit, *&c.* Com. Pleas,

Treſpaſs and Aſſault.

—— *As before unto* —— Of a Plea, wherefore with Force and Arms he made an Aſſault upon the ſaid *E.* at *G.* in the ſaid County, and him did beat, wound and evilly treat, ſo that his Life was deſpaired of, and other Enormities to him then and there did, to the great Damage of him the aforeſaid *E.* and againſt the Peace of the Lord the now King, *&c.* And whereupon the ſame *E.* by *D. R.* his Attorney complains, that the aforeſaid *A.* on the firſt Day of *December* in the fifth Year of the Reign of the now King, with Force and Arms, to wit, with Swords, Clubs and

Com. Pleas. Knives, made an Aſſault on him the ſaid *E.* at *G.* aforeſaid, and him did then and there beat, wound and evilly treat, ſo that his Life was greatly deſpaired of, and other Enormities, *&c.* to the great Damage, *&c.* and againſt the Peace, *&c.* Wherefore he ſaith, that he is injured, and hath Damage to the Value of fifty Pounds; And therefore brings his Suit, *&c.*

Trover.

Somerſet, to wit, A. *B.* late of *C.* in the County aforeſaid, Yeoman, was attached to anſwer unto *D. E.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſaid *D.* by *T. H.* his Attorney complains, That **whereas** the aforeſaid *D.* on the fifteenth Day of *June* in the ſixth Year of the Reign of the Lord the now King, at *L.* in the County aforeſaid, was poſſeſſed of the Goods and Chattels following, to wit, (*Here inſert the Goods you bring the Action for.*) to the Value of One hundred Pounds, as of his own proper Goods and Chattels; and the ſaid *D.* being ſo thereof poſſeſſed caſually loſt and miſlaid the Goods and Chattels aforeſaid out of his Hands and Poſſeſſion; which ſaid Goods and Chattels afterwards, to wit, the ſame fifteenth Day of *June* in the ſixth Year aboveſaid, at *L.* aforeſaid in the County aforeſaid, came to the Hands and Poſſeſſion of the aforeſaid *A.* by his finding the ſame: **Yet** the aforeſaid *A.* knowing the Goods and Chattels aforeſaid to be the proper Goods and Chattels of the ſaid *D.* and to him

him *D.* of Right to belong and appertain; but contriving and fraudulently intending craftily and ſubtilly to deceive and defraud the ſaid *D.* of thoſe Goods and Chattels, hath not delivered the Goods and Chattels aforeſaid to the ſame *D.* although often requeſted, but the Goods and Chattels aforeſaid afterwards, to wit, the fifteenth Day of *June* in the Year aboveſaid, at *L* aforeſaid in the County aforeſaid, converted and diſpoſed of to his own proper Uſe, to the Damage of the ſaid *D.* One hundred and fifty Pounds; And therefore he brings his Suit, *&c.* Com. Pleas.

Of Pleas.

See the King's Bench.

BY the Courſe of the Court upon a common Writ, the Defendant is not obliged to anſwer the ſame Term the Writ is returnable of, but may have an Imparlance, or Time to plead, until the ſubſequent Term, in which Term he muſt plead before the Rules to plead are out, otherwiſe the Plaintiff may ſign Judgment, if a Plea has been demanded. But if it be a Country Cauſe, the Defendant may, on Application to the Court, or a Judge, obtain a longer Time to plead, on his agreeing to plead an iſſuable Plea, and receiving Notice of Trial, ſo as the Plaintiff be not delayed, but may try the Cauſe the next Aſſizes. *When to plead.*

But now *per Reg. Cur' M.* 3 *Geo.* 2. *& E.* 3 *Geo.* 2. Upon all Proceſs returnable the firſt or ſecond Return of any Term, if the Plaintiff declares in *London* or *Middleſex*, and Defendant

Com. Pleas. fendant lives within twenty Miles from *London*, he must plead within four Days after the Declaration is delivered, without an Imparlance; And if the Plaintiff declares in any other County, or Defendant lives above twenty Miles from *London*, in eight Days.

Setting aside Judgment. And though the Plaintiff has signed his Judgment after the Four Days Rule is out, the Court, or a Judge, will (it being a Country Cause) on the Defendant's paying the Cost set aside the Judgment, and give him a reasonable Time to plead an issuable Plea.

Rules to plead. These Rules to plead must be entered in the Prothonotary's Office, where the Plaintiff's Attorney declares in, by the Secondary of the same Office, for which he is paid 16 *d.*

Where Declaration is filed and Notice given, there is no need of further calling for a Plea. *Per Reg. Cur. Mic.* 1 *Geo.* 2.

All Pleadings must be delivered, all Demands made, and Notice given, before Nine o'Clock in the Evening. *Reg. Cur' E.* 10 *Geo.* 2.

And *Note*; There are two Kinds of Imparlance, the one General, and the other Special, as you may find among the Declarations. After a general Imparlance, the Defendant cannot plead in Abatement to the Writ, Excommunication, or the like, nor any Privilege, as a privileged Person of another Court.

after G. Imparlance, can't plead in Abatement to the Writ, Privilege &c.

But many Pleas may be pleaded after a special Imparlance, which will not be allowed after the General.

If the Defendant prays a special Imparlance, he pays the Plaintiff's Attorney 2 *s.* for the Entry.

It is said, That when your Declaration is upon a Bond, if the Defendant's Attorney, upon

upon receiving the Declaration, do not crave, Com. Pleas.
that the Condition of the Bond may be entered with the Imparlance, and alſo pay for the ſame, then he is debarred from pleading Conditions performed at any Time after, without moving the Court, and paying 5 *s.* to the Judges Box; but if he inſiſt upon it, he need not plead till he have it.

Note; Imparlances in this Court are not entered in Form, as in *B. R.* (except when the Proceedings are upon Attachment of Privilege); for where a Declaration is delivered or filed, and the Plaintiff is not intitled to a Plea that Term, 'tis uſual only to write the Word *Imparlance* at the Bottom of the Declaration, and when the Iſſue is made up, no Notice is taken of it in the Entry, *&c.* but the Plea immediately follows the Declaration.

And *Note*, That the Defendant, upon pleading any general Iſſue, may, after a Rule given, nonſuit the Plaintiff, (if he do not enter his Iſſue) and get Coſts ſigned by the Prothonotary, and enter up Judgment, *becauſe the Plaintiff hath not joined Iſſue, nor further proſecuted his Writ aforeſaid*, &c. —— See more of this hereafter.

Note; The Secondary gives Rules to declare and plead every Day, for Four Days after the Term, and to reply and rejoin, Sixteen Days after.

Many Times, where the Plaintiff's Action is juſt and right, the Attorney for the Defendant will yield to a Judgment either by way of *Non ſum informatus*, or Confeſſion, ſo that the Plaintiff will ſtay Execution againſt the Defendant until ſuch a Time as both the At-

Com. Pleas. tornies ſhall agree upon: And this a good Way to ſave the Defendant's Perſon and Charges.

It is done after this Manner upon the Declaration:

Middleſex, to wit, *Reading* for *Radford*.
Hand for *Bayly*.

I am not informed, ſo that Execution ceaſes until Trinity *Term.*

By Will. Johnſon.

Upon which Judgment you may get Coſts taxed by the Prothonotary.

But if the Attorney for the Defendant do plead unto the Action, then you may join Iſſue, and go to Trial by *Niſi prius* at the next Aſſizes for the County. Of which more hereafter.

Of pleading double.

The Defendant cannot plead *Non aſſumpſit* and a general Releaſe, becauſe they are contradictory Pleas.

V. C. Barnes 329. In Treſpaſs for entring a Cloſe and pulling down a Wear, the Court would not allow the Defendant to plead *Liberum tenementum*, and a Juſtification of pulling down the Wear as a Nuſance, the Matters being inconſiſtent. *Trin.* 6 & 7 *Geo.* 2.

The Defendant may move to plead double at any Time before Judgment ſigned.

Not guilty, and an Accord and Satisfaction cannot be pleaded.

The Court will not give the Defendant leave to plead double till his Appearance is entered.

On

On Motion to plead *Non aſſumpſit*, and *Plene adminiſtravit*, an Affidavit, that the Defendant has fully adminiſtred muſt be produced from the Executor or Adminiſtrator. Com. Pleas.

Alſo on *Solvit ad diem* and *Riens per Deſcent*, an Affidavit of the Fact as to the *Riens per Deſcent* muſt be produced from the Heir.

Nil debet, and *Nil habuit in tenementis*, may not be pleaded, but the latter may be given in Evidence upon the former.

In Replevin the Defendant may plead, that the Plaintiff in Replevin had not Property, and a Juſtification as a Diſtreſs for Rent.

In *M.* 10 *Geo.* 2. a Motion was granted for the Defendant to plead double, pleading iſſuable Pleas, and taking ſhort Notice of Trial, (after a Judge's Order for Time to plead, pleading an iſſuable Plea had been made). *v. c. Barnes* 338.

After pleading a ſingle Plea the Defendant cannot plead double.

Not guilty and Juſtification cannot be pleaded becauſe contradictory.

On paying Money into Court the Defendant cannot plead double.

A Diſtreſs for Damage-feaſant and for Rent in Arrear may be pleaded.

Non aſſumpſit.

And the aforeſaid *A. B.* by *T. H.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſaith, that he did not undertake and promiſe in Manner and Form as the aforeſaid *C.* above complains againſt him: And of this puts himſelf upon the Country. Non aſſumpſit *pleaded.*

Not

Not Guilty in Caſe.

Non Cul. *in Caſe.* And the aforeſaid *A.* by, (*&c.*) when, (*&c.*) and ſaith, that he is Not guilty of the Premiſſes above laid to his Charge, in Manner and Form as the aforeſaid *C.* above complains againſt him: And of this he puts himſelf upon the Country.

In Treſpaſs.

Non Cul. *in Treſpaſs.* Note; *If in Treſpaſs, then* And ſaith, That he is Not guilty of the Treſpaſs aforeſaid in Manner and Form as, *&c.* (*as above.*)

In Aſſault.

—— Of the Treſpaſs and Aſſault aforeſaid, *&c.*

Owes nothing.

Nil debet per Patriam. —— When, *&c.* And ſaith, That he doth not owe to the aforeſaid *A. B.* the aforeſaid twenty Pounds, nor any Sum of Money, in Manner and Form as the ſaid *A. B.* hath above declared againſt him; And of this he puts himſelf upon the Country.

It is not his Deed, to a Bond.

Non eſt Factum. —— When, *&c.* And ſaith, that he ought not to be charged with the Debt aforeſaid, by Virtue

Virtue of the Writing Obligatory aforeſaid, because he ſaith, That that Writing Obligatory is not his Deed: And of this, &c. (*as in others.*) Com. Pleas.

By an Executor.

——And ſaith, That the Writing Obligatory aforeſaid, is not the Deed of the aforeſaid *A. B.* the Teſtator: And of this puts, &c. (*as in others.*)

To a Bill.

——And ſaith, That he ought not to be charged with the Debt aforeſaid, by Virtue of the Bill aforeſaid, becauſe he ſaith, That the ſaid Bill is not his Deed: And of this, (&c.)

And ſo of an Indenture, *Mutatis Mutandis.*

Non Aſſumpſit infra ſex Annos.

AND the aforeſaid *C.* by *T. H.* his Attorney comes and defends the Force and Injury, when, &c. and ſaith, That the aforeſaid *A.* ought not to have or maintain his Action aforeſaid thereof againſt him, becauſe he ſaith that he did not aſſume upon himſelf (*or* Undertake and Promiſe) at any Time within ſix Years before the Day of iſſuing of the original Writ of the ſaid *A.* in Manner and Form as the aforeſaid *A.* above complains againſt him: And this he is ready to verify: Wherefore he prays Judgment, if the aforeſaid *A.* ought

Com. Pleas. *A.* ought to have or maintain his Action aforeſaid thereof againſt him, *&c.*

Replication. And the aforeſaid *A.* ſaith, That for any Thing by the aforeſaid *C.* before alledged, he ought not to be precluded from having his Action aforeſaid; becauſe he ſaith that the aforeſaid *C.* within ſix Years before the Day of ſuing out the Original Writ of him the ſaid *A.* to wit, the aforeſaid ——Day of——in the ſixth Year of the Reign of the ſaid Lord the now King aboveſaid, at *S.* aforeſaid, aſſumed upon himſelf, (*or* undertook and promiſed) in Manner and Form, as he the ſame *A.* above complains againſt him; and this he prays may be inquired of by the Country; and the aforeſaid *C.* likewiſe, *&c.* Therefore the Sheriff is commanded, that he cauſe to come here, On the *Octave* of the Purification of the *Bleſſed Mary*, twelve free and lawful Men of the Body of his County, by whom the Truth of the Matter will be better known, and who are neither of Kin to the aforeſaid *A.* nor to the aforeſaid *C.* to recognize a Verdict between the ſaid Parties; becauſe as well the ſaid *A.* as the aforeſaid *C.* have put themſelves upon the ſaid Jury.

Solvit ad Diem.

—— And ſaith, That the aforeſaid *A.* ought not to have his Action aforeſaid againſt him, becauſe he ſaith, that after his Promiſes and Aſſumptions aforeſaid, in Form aforeſaid made, and before the Day of ſuing out the original Writ of the aforeſaid *A.* to wit, the ——Day

——Day of —— in the ſixth Year of the Reign of the ſaid Lord the now King aboveſaid, he the ſame *C.* at *D.* aforeſaid, well and faithfully paid to the aforeſaid *A.* the aforeſaid 5 *l.* according to his Promiſes and Aſſumption aforeſaid: And this he is ready to verify: Wherefore, *&c.* Com. Pleas.

And the aforeſaid *A.* ſaith, That for any Thing by the aforeſaid *C.* before alledged, he ought not to be precluded from having his Action aforeſaid againſt him, becauſe he ſaith, that the aforeſaid *C.* hath not paid to the ſame *A.* the aforeſaid 5 *l.* in Manner and Form as the ſaid *C.* above in his Pleading hath alledged: And this he prays may be inquired of by the Country; and the aforeſaid *C.* likewiſe, *&c.* *(as in others.)* *Replication.*

Defendant pleads Non-age at the Time of his Promiſe.

——And ſaith, That he, at the Time of making thoſe Promiſes and Aſſumptions, was within the Age of Twenty-one Years: And this he prays, (*&c.*) Wherefore, (*&c.*) *Deins Age.*

——Ought not to be precluded, (*&c.*) becauſe he ſaith, That the aforeſaid *R.* at the Time of making thoſe Promiſes and Aſſumptions, was of the full Age of One and twenty Years, in Manner and Form as the aforeſaid *C.* above hath alledged: And this he prays may be inquired, (*&c.*) *Replication.*

Com. Pleas. *If a Bond, you ſay,* At the Time of making the Writing Obligatory aforeſaid; *and to a Bill,* At the Time of making that Bill, was within the Age, (*&c.*)

Non Aſſumpſit *to the firſt, ſecond, and third Promiſes, and Payment to the reſt.*

——When, (*&c.*) And as to the firſt, ſecond, and third Promiſes, in the Declaration aforeſaid above-mentioned he ſaith, That he did not aſſume upon himſelf, (*or undertake and promiſe*) in Manner and Form as the aforeſaid *A.* above complains againſt him; and of this he puts himſelf upon the Country; and the aforeſaid *A.* likewiſe, *&c.* And as to the aforeſaid laſt Promiſe in the ſame Declaration above likewiſe mentioned, he ſaith that he ought not to have his Action aforeſaid againſt him the ſaid *C.* becauſe he ſaith, that he the aforeſaid *C.* after thoſe Promiſes and Aſſumptions aforeſaid made,

Replication. (*&c. as in the* Solvit ad Diem *before.*) And the ſaid *A.* ſaith, that for any Thing by the aforeſaid *C.* before alledged as to the aforeſaid laſt Promiſe in the ſaid Declaration above-mentioned he ought not to be precluded from having his Action aforeſaid againſt the ſaid *C.* becauſe he ſaith, That the aforeſaid *C.* did not pay to the ſame *A.* the aforeſaid 30 *s.* in Manner and Form as the aforeſaid *C.* above in Pleading hath alledged: And this he prays may be inquired of by the Country; and the aforeſaid *C.* likewiſe, *&c.* Therefore as well to try this

Iſſue

Iſſue as the aforeſaid other Iſſue between the Parties aforeſaid above joined, the Sheriff is commanded that he cauſe to come, *&c.* (*as in others.*) Com. Pleas.

Non Informatus *to one Promiſe, and* Non Aſſumpſit *to the other.*

And the aforeſaid *C.* by *D. R.* his Attorney, (*&c.*) When, (*&c.*) **And** as to the firſt Promiſe aforeſaid, the ſame Attorney ſaith, That he is not informed by the ſame *C. &c.* (*as in other* Non inform. *unto* without his Defence therein): Wherefore it is conſidered that the ſame *A.* ought to recover his Damages by Occaſion of the not performing the firſt Promiſe aforeſaid againſt the aforeſaid *C. &c.* **And** as to the ſecond Promiſe, the aforeſaid *C.* ſaith, That the aforeſaid *A.* ought not to have his Action aforeſaid againſt him the ſaid *C.* (becauſe he ſaith, That he did not aſſume upon himſelf (*undertake and promiſe*) in Manner and Form as the aforeſaid *A.* above complains againſt him: And of this he puts himſelf upon the Country; and the aforeſaid *A.* likewiſe, *&c.* **And** becauſe it is convenient and needful that one Taxation may be made of the Damages aforeſaid, by Occaſion of the Premiſſes, therefore let the Writ of Inquiry of Damages, by Occaſion of the Premiſſes, ſtay until the Iſſue between the Parties aforeſaid above joined ſhall be ended. **Therefore** as well to try the Iſſue aforeſaid between the Parties aforeſaid above joined, as to inquire what Damages the ſame

Unica taxatio damnorum.

Com. Pleas. ſame *A.* hath ſuſtained in this Behalf, the Sheriff is commanded that he cauſe to come here, *&c.* (*as in others.*)

He hath fully adminiſtred.

Plene Adminiſtravit.

The ſame as in the King's Bench; only inſtead of, *On the Day of exhibiting the Bill*, you ſay, *Nor had on the Day of ſuing out the Original Writ*, &c. as follows.

To wit ——ought not to have his Action aforeſaid againſt him, becauſe he ſaith, That he hath fully adminiſtred all and ſingular the Goods and Chattels which were of the aforeſaid *H.* at the Time of his Death; and that he hath not, nor had he on the Day of obtaining the Original Writ of the ſaid *W.* aforeſaid, nor at any Time afterwards, any Goods or Chattels which were the aforeſaid *H.*'s at the Time of his Death in his Hands to be adminiſtred, whereby the ſaid *C.* could have paid to the ſaid *W.* (the aforeſaid ſeveral Sums of Money, or any Part thereof, *or*) the Debt aforeſaid: And this he is ready to verify: Wherefore he prays Judgment whether the ſaid *W.* ought to have or maintain his ſaid Action thereupon againſt him, *&c.*

That

Com. Pleas.

That Adminiſtration was never granted to the Defendant.

——Ought not to have his Action aforeſaid hereof againſt him, becauſe he ſaith, That Adminiſtration of the Goods and Chattels, which were the aforeſaid *I.*'s at the Time of his Death, to the ſame *(Defendant)* was never granted: And this, (*&c.*) Wherefore, (*&c.*) *in others.*

——Ought not to be precluded from having his Action aforeſaid againſt him, becauſe he ſaith, That Adminiſtration of the Goods and Chattels, which were the aforeſaid *I.*'s at the Time of his Death, was granted by the ſaid Writing to the aforeſaid (*Defendant*) in Manner and Form as he hath above declared againſt him: And this he prays may be inquired of by the Country. *Replication.*

That he appeared at the Day, pleaded to a Sheriff's Bond.

——When, *&c.* And prays Oyer of the Writing obligatory aforeſaid; and it is read to him, *&c.* He alſo prays Oyer of the Condition of the ſame Writing; and it is read to him in theſe Words, *The Condition*, (&c.) Which being read and heard, the ſame *C.* ſaith, That the aforeſaid *A.* ought not to have or maintain his ſaid Action againſt him, becauſe he ſaith, that he aforeſaid *C.* hath appeared before the aforeſaid Comperuit ad Diem. *This being an iſſuable Plea, it is ſaid there is no need of a Serjeant's Hand to it.*

Com. Pleas. aforeſaid Juſtices of the ſaid Lord the Kin here, to wit, at *Weſtminſter*, On the aforeſai *Octave* of St. *Hillary*, to anſwer to the afore ſaid *A. B.* of the Plea aforeſaid, according t the Form and Effect of the Condition aforeſaid the Appearance of which ſaid *C.* was then re corded in the Court of the King here, as b the Record thereof in the ſame Court here re maining, doth manifeſtly appear: And this (*&c.*) Wherefore, (*&c*)

Replication. —— Ought not to be precluded, (*&c.*) be cauſe he ſaith, That there is no ſuch Recor of the Appearance of the aforeſaid *C.* befor the aforeſaid Juſtices of the ſaid Lord the Kin here, to wit, at *Weſtminſter*, On the aforeſai *Octave* of St. *Hillary* remaining in the Cou of the King here, as he hath above alledged And this he is ready to verify: Wherefore h prays Judgment, and his Debt, together wit his Damages, by Occaſion of the Detention o that Debt, to be adjudged to him, *&c.*

Rejoinder. **And** the aforeſaid *C.* as before ſaith, Th there is ſuch a Record of the Appearance o the aforeſaid *C.* remaining before the aforeſai Juſtices of the ſaid Lord the King, as he ha above alledged; and prays that the Recor may be ſeen and inſpected by the Juſtices here And becauſe he hath not now that Recor ready here in Court, it is told to the aforeſai *C.* that that Record for himſelf ſearched h may have here, * from the Day of *Eaſter* i three Weeks: The ſame Day is given to th Parties aforeſaid here, *&c.*

* *It ought to be returnable in a Return, unleſs by Privilege and Rules to be given before Judgment ſigned upon* Deficit de Record.

N

Not damnified, to a Counter-Bond.

—When, &c. and prays Oyer of the Writing aforeſaid; and it is read to him, &c. He alſo prays Oyer of the Condition of the ſame Writing; and it is read to him in theſe words, (*The Condition of*, &c.) which being read and heard, the ſame *C.* ſaith, That the aforeſaid *A.* ought not to have his Action aforeſaid thereof againſt him; becauſe he ſaith, that the aforeſaid *A.* after the making of the Writing aforeſaid, and before the Day of ſuing forth the Original Writ of the aforeſaid *A.* was not damnified for or concerning the aforeſaid Writing Obligatory, in the Condition aforeſaid above ſpecified, in which the aforeſaid *A.* together with the ſame *C.* jointly and ſeverally were bound to the aforeſaid *S. T.* And this, (&c.) Wherefore, (&c.) Non damnificatus.

—Ought not to be precluded, &c. becauſe he ſaith, That the ſaid *C.* upon the aforeſaid tenth Day of *May*, in the Condition aforeſaid above ſpecified, did not pay to the aforeſaid *S. T.* the aforeſaid 50 *l.* in the ſaid Condition likewiſe ſpecified, which upon the ſame Day he ought to have paid to the ſaid *C.* which the aforeſaid Writing Obligatory by the aforeſaid *A. B.* and *C. D.* to the aforeſaid *S. T.* made and ſealed, for the Payment of the aforeſaid 50 *l.* was forfeited; upon which the ſame *A.* for the avoiding Suits in Law, and the Dangers and Incumbrances which might happen to the ſaid *A.* and his Eſtate, by Reaſon *Replication.*

Com. Pleas. of the Non-Payment of the aforeſaid 50 *l.* ac-
cording to the Form and Effect of the Condi-
tion aforeſaid, afterwards, to wit, the twen-
tieth Day of *June* in the ſixth Year of the
Reign of the ſaid Lord the now King at *L.*
aforeſaid paid the ſaid 50 *l.* to the aforeſaid *S.*
in full Satisfaction of the aforeſaid Writing
Obligatory of 100 *l.* in the aforeſaid Obligation
above ſpecified: And ſo the ſame *A.* ſaith
That he was damnified, by Reaſon of the
aforeſaid Writing Obligatory in the Sum of
100 *l.* againſt the Form and Effect of the Con-
dition aforeſaid above ſpecified: And this he is
ready to verify: Wherefore he prays Judgment
and his Debt aforeſaid, together with his Coſts
by Occaſion of the Detention of that Debt, to
be adjudged to him, *&c.*

Rejoinder. And the aforeſaid *C.* ſaith, That the afore-
ſaid *A.* the aforeſaid twentieth Day of *June*
in the ſixth Year aboveſaid did not pay to the
aforeſaid *S. T.* the aforeſaid 50 *l.* in Manner and
Form as the aforeſaid *A.* hath above alledged:
And of this he puts himſelf upon the Country
and the aforeſaid *A.* likewiſe: Therefore the
Sheriff is commanded, (*&c.*)

He does not detain.

Non Detinet. ——When, *&c.* and ſaith, That he does
not detain from the aforeſaid *A. B.* the afore-
ſaid 30 *l.* nor any Part thereof, in Manner and
Form as the ſaid *A.* hath above declared againſt
him: And of this he puts himſelf upon the
Country, (*&c.*)

Occ

Owes nothing, nor detains.

And the aforeſaid *J. S.* by *A. B.* his Attor- Nil Debet,
ey, comes and defends the Force and Injury, nec detiner.
hen, *&c.* and ſaith, That he doth not owe to
e aforeſaid *R. R.* the aforeſaid 10 *l.* nor any
art thereof, in Manner and Form as the ſaid
. *R.* hath above declared againſt him; nor
th he detain from the aforeſaid *R R.* the
orſe aforeſaid, in Manner and Form as the
me *R.* hath above declared againſt him: And
this he puts himſelf upon the Country, *&c.*

Hath not demiſed, to Debt for Rent.

—When, *&c.* ought not to have or main- Non Dimiſit.
in his Action, (*&c.*) becauſe he ſaith, That
e ſaid *A.* did not demiſe the Tenements afore-
d, with the Appurtenances, to the ſaid *D.*
Manner and Form as the aforeſaid *A.* above
clares againſt him: And of this he puts him-
f upon the Country, (*&c.*)

Conditions performed.

See before in the King's Bench.

Tender of the Money, to a Bond.

—Which being read and heard, the ſaid
ſaith, That the aforeſaid *B.* ought not to
ve or maintain his Action aforeſaid thereof

Com. Pleas. againſt him, becauſe he ſaith, That he was ready at the aforeſaid Feaſt of St. *Michael* the Archangel, and then offered to pay to the aforeſaid *B.* the 20 *l.* which he ought to have paid him at the aforeſaid Feaſt, according to the Form and Effect of that Condition, to wit, at *L.* aforeſaid; and that neither the aforeſaid *B.* nor any other from the ſame *B.* were then and there ready to receive from the ſame *A.* the aforeſaid 20 *l.* And further the ſame *A.* ſaith, That he always from the aforeſaid Feaſt of St. *Michael* the Archangel, hitherto was ready, and yet is ready to pay to the aforeſaid *A.* the aforeſaid 20 *l.* and the ſame *A.* brings here into Court the ſame 20 *l.* ready to pay to the aforeſaid *B.* And this, (*&c.*) Wherefore, (*&c.*)

This Plea above is to be pleaded before Imparlance.

Replication. That he did not offer, *&c.* and Defendant (*as before*) ſaith, That he did offer, *and Iſſue.*

Payment at the Day, to a Penal Bill.

Solvit ad diem. —— Ought not to have his Action, (*&c.*) becauſe he ſaith, That he paid to the aforeſaid *A.* upon the aforeſaid twentieth Day of *May*, the aforeſaid 20 *l.* which to him upon the ſame Day he ought to have paid, according to the Form and Effect of the Bill aforeſaid, to wit, at *G.* aforeſaid: And this, (*&c.*) Wherefore, (*&c.*)

—That

——That he did not pay in Manner and Form as the aforeſaid (*Defendant*) hath above alledged: And this he prays may be inquired, &c. Com. Pleas. *Replication*

See before in the King's Bench.

Per Minas.
Per Dures.
Ne unques Executor.
Ne unques Adminiſtrator.
Ne unques Receptor.
Son Aſſault Demeſne.

Came by Deſcent.

The ſame as in the King's Bench, only inſtead of——*on the Day of exhibiting the Bill*, you ſay——*the Day of ſuing out the Original Writ*, &c. Riens per Deſcent.

Of making up Iſſues.

NOTE; the Common Pleas uſe no *Memorandum*, (as the King's Bench does,) unleſs in ſpecial Caſes, (as in a Bill againſt an Attorney.)

But having written the Prothonotary's Name, and the Term the Iſſue is made up, they begin with the Declaration in Manner following.

Com. Pleas

Trinity the ſixth of George II.

Cooke,

Declaration. *Middleſex*, to wit, A. *B.* late of *C.* in the County aforeſaid, Yeoman, was attached to anſwer *D. E.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *D.* by *F. G.* his Attorney complains, that **whereas**, *&c.* (*Verbally as in the Declaration,*) and thereof he brings his Suit, *&c.*

Note; *In Debt, Covenant, Account, Annuity, Detinue and Replevin, the Common Pleas Form is,* Was ſummoned to anſwer; *and in Caſe, Treſpaſs, Trover, and Ejectment, the Form is,* Was attached to anſwer, *&c.*

Having written the Declaration, you muſt begin a new Line, to enter your Plea; for obſerve, that the Common Pleas doth not now continue any Imparlance in their Entries, but when it is againſt an Attorney, (though at the Bottom of their Declaration they uſually give a Li. Lo. *to the next Term, when they deliver them to the Defendant's Attorney, as you may ſee among the Declarations.*

Plea. **And** the aforeſaid *A. B.* by *T. H* his Attorney comes and defends the Wrong and Injury, when, *&c.* (*And ſo write the Plea* Verbatim *to the Words*). And of this he puts himſelf upon the Country, *add,* and the aforeſaid *C.* does likewiſe the ſame. (*And then go on thus,*) **Therefore** the Sheriff is commanded that he cauſe

cauſe to come here in three Weeks from the Day of the *Holy Trinity* Twelve, *&c.* By whom, *&c.* And who neither, *&c.* To recognize, *&c.* Becauſe as well, *&c.* Com. Pleas.

See before amongſt the Pleas for other Forms of awarding the *Venire.*

Per Reg. Cur. H. 11 G. I. **Reciting** that *Complaint having been made by the Clerk of the Treaſury and the Reſt of the Clerks there, that Practicers often made up their Iſſues of Terms in which they were not joined, and thereby defrauded the ſaid Officers of their Fees*: It is therefore **ordered** that every Iſſue ſhall be entred on Record of the Term in which it was joined, notwithſtanding any Conſent given by the Attornies or their Agents on either Side to the contrary. And whoſoever ſhall offend in Breach of this Rule ſhall be adjudged guilty of a Contempt, and be puniſhed accordingly. And the Clerk of the Treaſury may require any Perſon ſuſpected of ſuch illegal Practices as aforeſaid to produce ſuch Proceedings in the Cauſe as the Clerk of the Treaſury ſhall think neceſſary for the better diſcovering when Iſſue was actually joined. *Of what Time made up and entred on the Roll.*

When Iſſue is joined, you muſt deliver a Copy of it to the Defendant's Attorney, who is to pay you 4*d.* per Sheet, and for entring Plea 2*s.*

Com. Pleas. 'Tis uſual to write the Notice of Trial on the Back thus:

Notice of Trial. **Take Notice** that this Cauſe will be tried at the next (*Dorſetſhire*) Aſſizes.

Yours,

E. F. Attorney for the Plaintiff.

When Notices of Trial or Inquiry to be given. *Per Reg. Cur. M.* 1654. Notices of Trials or Inquiries in *London* or *Middleſex*, (the Defendant dwelling within 40 Miles of *London*) to be given eight Days excluſive of the Day of giving Notice.

If the Defendant lives above 40 Miles from *London*, Notice of Trial and Inquiry in *London* or *Middleſex* to be 14 Days excluſive of the Day of Notice.

Eight Days Notice excluſive to be given upon Trials in the Country, and upon Writs of Inquiry of Damages in Writs of Dower and Waſte, and all other Inquiries of Damages.

When new Notice to be given. If the Plaintiff give Notice of Trial, and proceed not, the Plaintiff not to take it down to Trial again without new Notice to be given, as is before expreſſed, unleſs by Conſent or Rule of Court.

But in *London* or *Middleſex*, if Notice be given of a Trial for one Sitting, and the Plaintiff be not provided to proceed: If he give Notice before that Sitting, that he will try it the next Sitting, that to be held convenient Notice.

Of Coſts for not proceeding to Trial. In Caſe of ſuch Warning and no Proceedings, the Defendant upon Motion to have his Coſts of his former Attendance, to be taxed by the

the Prothonatary; unleſs the Plaintiff give to the Defendant warning in convenient Time, that he would not proceed; or ſhew Cauſe to be allowed by the Court in Excuſe for ſuch Coſts. Com. Pleas.

If the Plaintiff give Notice of Trial and proceed not, the Defendant may take it by Proviſo, according to Law, giving Notice eight or fourteen Days, as the Caſe requires, as aforeſaid. *Notice by Proviſo.*

In *London* or *Middleſex*, if not Warning for a Trial, then the Defendant not to take it by Proviſo to try it the ſame Term; but afterwards he may, giving eight or fourteen Days Notice, as the Caſe requires.

If Iſſue be joined above a Term ſince in any Caſe, then one Term's Notice to be given of the Trial. *When a Term's Notice.*

Note; It muſt be given before the Eſſoin-Day.

Per Reg. Cur. M. 3 *Geo.* 1. Countermands of Notices of Trial muſt be given two Days before the Commiſſion-Day. *Countermand.*

Note; Countermand not to be given on a *Sunday.*

How to make up the Record.

MAKE a Margin of near an Inch broad, then near the Top of your Piece of Parchment write the *Placita* in the ſame ſmall Hand you write the reſt of your Record; but the Word *Placita*, (*Pleas*) as alſo the firſt Word

Com. Pleas. Word of the Plea, Replication, &c. being written in large Hand makes a Record ſeem well.

Pleas at *Weſtminſter* before Sir *John Willes*, Knight, and his Brethren, Juſtices of the Bench of the Lord the King at *Weſtminſter*, of the Term of —— in the —— Year of the Reign of the Lord *George* the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, &c.

Roll ——

Then beginning a new Line near Half an Inch Diſtance, enter the Declaration as follows:

Somerſet, to wit, *A. B.* late of *C.* in the County aforeſaid, Gent. was attached to anſwer *D. E.* of a Plea of Treſpaſs upon the Caſe, &c. And whereupon the ſaid *D.* by *F. G.* his Attorney complains, That **whereas**, &c. (*to the End of the Iſſue*, becauſe as well, &c)

Note; The *Common Pleas* write their *Placita* but once, (except Death, or Change of Chief Juſtice, or upon an old Record,) ſo that it is good to leave an Inch betwixt the Iſſue and *Jurata*, and begin the *Jurata* within an Inch of the Iſſue thus:

Jurata. *Somerſet*, to wit, **The Jury** between *D. E.* Plaintiff, and *A. B.* late of *C.* in the County aforeſaid, Gent. of a Plea of Treſpaſs upon the Caſe,

Caſe, is reſpited here until three Weeks from the Day of St. *Michael*, unleſs the Juſtices of the Lord the King, appointed to hold the Aſſizes in the County aforeſaid, according to the Form of the Statute, *&c.* ſhall come before that Time, to wit, on (*the Day of the Aſſizes*) at (*the Place where the Aſſizes are held*) in the County aforeſaid, through the Default of the Jurors; becauſe none of them appeared, Therefore let the Sheriff have their Bodies, *&c.* And be it known, that the Writ thereof the Juſtices here in Court this ſame Term have delivered to the Under-Sheriff of the County aforeſaid to be executed in Form of Law, *&c.* Com. Pleas.

Jurata *upon an Iſſue taken by the King's Attorney General, as in* Quare Impedit, *thus:*

Berks, to wit, **The Jury** between the Lord the King, by Sir *Dudley Rider*, Knt. Attorney General of the ſaid Lord the now King, Plaintiff, and *J. B.* Clerk, of a Plea of *Quare Impedit*, is reſpited, *&c.* (*as in others.*)

If your Jurata *be in* London, *then ſay,*

London, to wit, **The Jury**, *&c.* as before is reſpited here until (*the very next Day after the Sittings, if in Term; but if not in Term, then to the firſt Return Day of the next Term,*) as in three Weeks from the Day of Saint *Michael*, unleſs Sir *John Willes*, Knt. Chief Juſtice of the Lord the King of the Bench here, appointed according to the Statute, *&c.* ſhall come

Com. Pleas. come before that Time, to wit, on (*the Day of the Sittings*) * at *Guildhall*, *London*, through the Default of the Jurors; and becauſe none came, Therefore let the Sheriff have the Bodies, &c. And be it known, that the Juſtices here in Court this ſame Term have delivered the Writ thereof to *A. B.* Eſq; (*naming the Under-Sheriff's Name,*) Under-Sheriff of *London*, in Form of Law to be executed, &c.

Jurata *in* Middleſex.

* *If in* Middleſex, *you ſay*, Unleſs, (&c.) at *Weſtminſter* aforeſaid, in the Great Hall of Pleas, commonly called *Weſtminſter-Hall*, there, (&c.)

When your Record is made up, and before it is ſealed, you muſt enter your Iſſue on a Roll from the Prothonotary, or at leaſt muſt thereon make an *Incipitur* of the Iſſue, and then carry the Record and the Roll to the Prothonotary, who will ſign your Record, upon paying him for the Iſſues; and if you have Occaſion, will give you back the Roll: Then you muſt carry your Record to the Clerk of the Treaſury to be ſealed, and you muſt make out Warrants of Attorney to carry with it, after this Manner, (*to wit,*)

Warrant of Attorney. *Somerſet*, ſſ. *A. B.* puts in his Place *F. G.* his Attorney, againſt *C. D.* late of *E.* in the County aforeſaid, Gent. of a Plea of Treſpaſs upon the Caſe.

ſſ. *C. D.* late of *E.* in the County aforeſaid, Gent. puts in his Place *T. H.* his Attorney, againſt *A. B.* of the Plea aforeſaid. Com. Pleas.

And ſo of the reſt. You muſt give the Warrants to the Clerk of the Warrants there, who will mark your Record; then you muſt give it to the Clerk of the *Jurata's* to examine, and then to Mr. *Maidſtone* to ſign, and then to his Man to ſeal.

Hillary *Term the* 14*th of King* George II.

Of entring Cauſes at the Aſſizes.

WHereas for regulating Trials by *Niſi prius* in the Circuits, an Order was made by all the Judges of *England* in *Trinity* Term in the 10th and 11th Years of his preſent Majeſty, "*That in every Cauſe to be* "*tried before them in their reſpective Circuits* "*the Writ and the Record ſhould be entered to-*"*gether, and that no Record ſhould be received* "*without the Writ*", which Order hath not fully anſwered the Intent thereof; but notwithſtanding many Inconveniences do ſtill happen to the Suitors, by delaying or putting off the Trials of their Cauſes: Now in order more effectually to prevent theſe Inconveniences for the future, **It is ordered by all the Judges of** *England*, that no Writ and Record of *Niſi prius* ſhall be received at the Aſſizes in any County of *England*, unleſs they ſhall be delivered to and entered with the Marſhal, before the firſt Sitting of the Court after the Commiſſion-Day, except in the Counties of *York* and *Norfolk*; and there the Writs and Records ſhall be delivered to, and entered

Com. Pleas. entered with the Marſhal before the firſt Sitting of the Court on the ſecond Day after the Commiſſion-Day, otherwiſe they ſhall not be received. And that every Cauſe ſhall be tried in the Order in which it is ſo entred, without any Preference or Delay, unleſs it ſhall be made out to the Satisfaction of the Judge in open Court, that it is impracticable or inconvenient ſo to do, who thereupon may make ſuch Order for the Trial of the Cauſe ſo put off, as to him ſhall ſeem juſt.

And it is further ordered, That a Liſt of the Cauſes, when ſo entred as aforeſaid, ſhall be made by the Marſhal, and forthwith fixed up in ſome publick Place in the *Niſi prius* Court, there to remain during the whole Time of the Aſſizes.

W. Lee,	*Law. Carter,*	*T. Parker,*
J. Willes,	*J. Forteſcue A.*	*M. Wright,*
E. Probyn,	*W. Forteſcue,*	*Ja. Reynolds,*
F. Page,		*Tho. Abney.*

The Form of a Venire Facias *in* C. B.

GEORGE the Second, by the Grace of God, of *Great Britain, France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriff of *S.* Greeting: We command you, that you cauſe to come before our Juſtices at *Weſtminſter* from the Day of the Holy *Trinity* in three Weeks, (*the Return muſt be the laſt of the precedent Term,*) twelve free and lawful Men of the Body of your County, each of whom having ten Pounds a Year at leaſt in

Lands, Tenements, or Rents, by whom the Truth of the Matter may be the better known; and who are neither of Kin to *A. B.* the Plaintiff, nor to *C. D.* late of *F.* in your County, Gentleman, (*if it be upon a Specialty you muſt put in the* Alias dict',) to make a certain Jury of the Country between the Parties aforeſaid, of a Plea of Treſpaſs upon the Caſe, (*as the Cauſe of Action is*) becauſe as well the ſaid *C.* (*who firſt takes Iſſue,*) as the aforeſaid *A.* between whom the Matter in Diſpute is, have put themſelves on that Jury; And have there the Names of the Jurors, and this Writ. Witneſs Sir *John Willes*, Knt. at *Weſtminſter*, the —— Day of *June* in the —— Year of our Reign. Com. Pleas.

Note; The Teſte muſt be the firſt Day of the laſt Term.

You muſt ſign this *Venire facias* with the Prothonotary, and pay him one Shilling and four Pence; and this may be done before the Record is ſealed; and you pay for ſealing this Writ 7 *d.* and for returning it 2 *s.* 6 *d.*

Where Attorney General takes Iſſue in Quare Impedit, *&c. make it thus:*

George, &c. (*until* may be the better known,) and who are not of Kin to *A. B.* Clerk, to make a certain Jury of the Country between us and the aforeſaid *J.* of a Plea of *Quare Impedit*, becauſe as well we as the aforeſaid *J.* between whom the Matter in Diſpute is, have put ourſelves on that Jury; And have there the Names of the Jurors, and

Com. Pleas. this Writ. **Witneſs** Sir *John Willes*, Knt. at *Weſtminſter*, &c.

Note; You may move the Court in *Quare Impedit*, on the King's Part, for a ſpecial Jury, *(to wit)* that the Sheriff attend the Prothonotary with the Book of Freeholders, that the Prothonotary, in the Preſence of the Attorney or Solicitors of both Parties, may name forty-eight; from which either Party may abſtract twelve, and the Sheriff to impanel the remaining twenty-four. *And that no Calumny may be for Defect of Hundredors*, &c.

If you doubt in this Caſe, whether a ſufficient Number of the Panel will appear, to make full Jury, *&c.* then you muſt draw up or rather petition for a *Tales* upon Parchment after this Manner, *(to wit,)*

Berks, to wit, *Philip York*, Knight, Attorney General of the Lord the now King, who for the ſame Lord the King in this Behalf follows for the Lord the King, prays *Tales de Circumſtantibus*, granted by the Court for Trial of the Iſſue between the ſaid Lord the King and *J. B.* Clerk of a Plea of *Quare Impedit*, leſt the Jury in this Behalf to be taken remain for Default of Jurors, *&c.*

Phil. York.

To this you muſt get the Attorney General's Hand, the Fee of which is nine Shillings and eight Pence.

The Form of the Habeas Corpora.

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* **To** the Sheriff of *S.* Greeting: **We command** you, that you have before our Juſtices at *Weſtminſter* from the Day of St. *Michael* in three Weeks, (*the firſt Return of the next Term*,) or before our Juſtices appointed to hold the Aſſizes in your County, according to the Form of the Statute in ſuch Caſe made and provided: If they ſhould come before that Time, to wit, on (*the Day the Aſſizes are held*,) at (*the Place where*) in your County, the Bodies of the ſeveral Perſons named in the Panel annexed to this Writ, (*If you have a ſpecial Jury to try the Cauſe, ſay*, the Bodies of *A. B.* of —— *C. D.* of —— *E. F.* of —— *naming all the Jurors, with their Additions*,) the Jurors ſummoned into our Court, before our Juſtices at *Weſtminſter*, between *D. E.* Plaintiff, and *A. B.* late of *C.* in your County, Gent. Defendant, of a Plea of Treſpaſs upon the Caſe, to make that Jury; And have there this Writ. **Witneſs** Sir *John Willes*, Knt. at *Weſtminſter*, the —— Day of —— in the —— Year of our Reign. *Bulſtrode.*

Note; This Writ muſt be teſted the laſt Day of the precedent Term.

This *Habeas Corpora* you may beſpeak at Mr. *Bulſtrode*'s Office, which is kept at the *Examiner*'s Office at the *Rolls*; or elſe you

Com. Pleas. may fill it up your ſelf, and carry it thither with your *Venire*, and his Clerk will examine it and ſign it; and you muſt leave the *Venire* and Panel with him to be filed.

Next, ſeal your *Habeas Corpora* (which may be done before or after your Record is ſealed.)

See in the *King's Bench* for a *Diſtringas* when in *London* or *Middleſex*, which will inſtruct you how to put your Day and Place in a *Habeas Corpora* for either of thoſe Places, (*mutatis mutandis.*)

In Prohibition either Plaintiff or Defendant may carry down the Record.

Note; Formerly, if your Record was not tried the firſt Aſſizes, then you might make out a *Pluries Habeas Corpora* by the old one, and give the old one into the Office, who would ſign your *Pluries Habeas Corpora*; and you could not in ſuch Caſe fill up a new *Habeas Corpora* upon a new Panel, for then it was ſaid to be *Error*; but this is altered by a late Act of Parliament. * You may carry your old Record or Copy, in ſuch Caſe, to the Clerk of the Treaſury to be examined by the Roll, which if done in Term-Time will ſave Fees; for if it be out of Term, he will be paid for the Keys, and for going down to *Weſtminſter* to examine, *&c.* And he will make you a new Record, (if your old one be loſt,) or elſe alter your old one, and ſeal it anew. The *Habeas Corpora* muſt be delivered to the Under-Sheriff at the Aſſizes to return; and then it, and the Record, muſt be delivered to the Judge's Marſhal, *&c.*

* Note; *If you carry your old* Habeas Corpora *you ſave* 13 d.

Subpœna.

Subpena.

The Form of a Subpœna ad Teſtificandum.

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To *A. B. C. D. E. F.* and *G. H.* Greeting: We command you, and every of you, firmly injoyning, that laying aſide all other Pretences and Excuſes whatſoever, you be in your proper Perſons before our Juſtices at the Aſſizes, to be held at (*the Place where the Aſſizes are held,*) in the County of *S.* the —— Day (*the Day when the Aſſizes are held,*) next enſuing, to teſtify and ſpeak the Truth, in a certain Matter of Controverſy in our Court before our Juſtices at *Weſtminſter* depending undetermined, between *D. E.* Plaintiff, and *A. B.* late of *C.* in the ſaid County of *S.* Defendant, of a Plea of Treſpaſs; and this by no Means omit, nor any of you omit, under the Penalty of one hundred Pounds on every of you. Witneſs Sir *John Willes*, Knt. at *Weſtminſter*, &c. *At the Aſſizes.*

If in London *ſay*, Before Sir *John Willes*, Knt. Chief Juſtice of our Court of the Bench at *Guildhal*, *London*, on, *&c.* (*the Day of the Sittings,*) To teſtify, (*&c.*) *In* London.

If in Middleſex *ſay*, Before Sir *John Willes*, Knt. (*&c.*) —— at *Weſtminſter*, in the Great Hall *In* Middleſex.

Com. Pleas. Hall of Pleas there, commonly called *Weſtminſter Hall*, To teſtify, (*&c.*)

See before in the King's Bench for a *Subpœna to teſtify on a Writ of Inquiry of Damages*, (which may ſerve for the *Common Pleas*, *Mutatis mutandis*,) Your *Subpœna* and Tickets muſt be made out ſoon enough, to be ſerved on the Witneſſes to attend the Trial.

A Subpœna *Ticket.*

Mr. *A. B.*

BY Virtue of a Writ of *Subpœna* to you directed, and herewith ſhewed unto you, you are perſonally to be and appear before his Majeſty's Juſtices of Aſſize on —— next, being the —— Day of —— at —— of the Clock in the — noon of the ſame Day, at the Court then to be holden at ——— to teſtify the Truth according to your Knowledge, in a certain Cauſe now depending, and then and there to be tried, between *D. E.* Plaintiff, and *A. B.* Gent. Defendant, in a Plea of Treſpaſs on the Part of the Plaintiff; And thereof you are not to fail, on Pain of One hundred Pounds. Dated the —— Day of —— in the —— Year of the Reign of our Sovereign Lord *George* the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* and in the Year of our Lord One thouſand ſeven hundred and thirty-two.

If for London *or* Middleſex, *then before Sir* John Willes, *Knt. mutatis mutandis.*

See

See before in the *King's Bench* a Precedent for a Ticket upon a *Subpœna*, to teſtify upon a Writ of Inquiry of Damages, and for Notice of Trial, and of not proceeding after Trial. Com. Pleas.

How to make up the Rolls, and enter Judgment in the Common Pleas.

MAKE a Margin of an Inch, then rule your firſt Line about a Span from the Top of the Roll, and then enter your Declaration and Iſſue or other Proceedings.

Somerſet, ſſ. *A. B.* late of *C.* in the County aforeſaid, Gent. was ſummoned to anſwer to *G. F.* of a Plea that he render to him one hundred Pounds, (*and ſo on* verbatim *as in the Declaration to the End thereof.*) And therefore he brings Suit, &c. (*And ſo conſequently the reſt of your Pleadings and Iſſue, beginning a new Line at each Plea, Replication*, &c.)

Note; As to Judgments, you enter only ſuch as are had without Trial, for the Clerk of the Judgments enters the others.

Theſe Judgments without Trial are by *Nil dicit*, *Cognovit actionem*, and *Non ſum informatus*.

And therein *Note*, after you have entered the Declaration (as before,) then beginning a new Line, write,

And the aforeſaid *A. B.* (*naming the Defendant,*) by *T. H.* his Attorney, comes and defends

Nil dicit *in Caſe, without an* Aſſumpſit.

Com. Pleas. defends the Force and Injury when, *&c.* And ſaith nothing in Bar or Preclusion of the Action of the aforeſaid *E.* by which the ſame *E.* remains againſt the aforeſaid *A.* without his Defence therein; whereby the ſame *E.* ought to recover his Damages by Occaſion of the Premiſſes againſt the aforeſaid *A.* But becauſe it is unknown what Damages the aforeſaid *E.* hath ſuſtained by Occaſion of the Premiſſes, therefore the Sheriff is commanded that by the Oaths of twelve honeſt and lawful Men of the County aforeſaid he diligently inquire what Damages the aforeſaid *E.* hath ſuſtained, as well by Occaſion of the Premiſſes, as for his Coſts and Charges by him put to about his Suit in this Behalf. And the Inquiſition which he ſhall take thereon the Sheriff ſhall make appear to the Juſtices of the Lord the King at *Weſtminſter*, from the Day of St. *Michael* in three Weeks, under his Seal, and the Seals of them, *&c.*

Writ of Inquiry of Damages awarded.

Note; *in Caſe your Stamp is only* 2d. *becauſe the Judgment is after the Writ of Inquiry.*

Aſſumpſit. *Note*; If it be upon an *Aſſumpſit*, then you ſay, *by Occaſion of not performing the Promiſes and Aſſumptions*, inſtead of, *by Occaſion of the Premiſſes.*

Nil Dicit *in Treſpaſs.*

Treſpaſs. You write as before, *Verbatim*; only for the Words, (*by Occaſion of the Premiſſes,*) you muſt ſay, (*by Occaſion of the Treſpaſs aforeſaid.*)

In

In Aſſault.

If in Aſſault, then (*by Occaſion of the Treſpaſs and Aſſault aforeſaid.*) If in Aſſault and Impriſonment, (*by Occaſion of the Treſpaſs, Aſſault, and Impriſonment aforeſaid.*) *Aſſault.* *Impriſonment.*

In Covenant.

As above unto —— whereby the ſaid *A.* ought to recover his Damages by Occaſion of the Breach of the Covenant aforeſaid againſt the aforeſaid *B.* but becauſe it is unknown what Damages, *&c.* (*as next before.*)

Nil Dicit *in Debt.*

As above——remains againſt the aforeſaid *A.* without his Defence therein; **Therefore it is conſidered,** That the aforeſaid *H.* do recover againſt the aforeſaid *B.* his Debt aforeſaid, and his Damages by Occaſion of detaining that Debt to 40 *s.* adjudged by the Court here to the ſame Plaintiff, on his Aſſent: And the aforeſaid *B.* in Mercy, *&c.* *Here ſet down the Day Judgment was ſigned.* *Mercy.*

Nil Dicit *in Ejectment.*

As above unto,——undefended; **Therefore it is conſidered,** that the aforeſaid *E.* do recover againſt the aforeſaid *A.* his Term aforeſaid yet to come, of and in the Manor and Tenements

Com. Pleas, nements aforesaid, (*according to the Parcels in the Declaration,*) with the Appurtenances, and his Damages, by Occasion of that Trespass and Ejectment. But because it is unknown what Damages the aforesaid *A.* hath sustained by Occasion of the Trespass and Ejectment aforesaid, the Sheriff is commanded, that by the Oaths of twelve honest and lawful Men of his County aforesaid, he diligently inquire what Damages the aforesaid *A.* hath sustained, as well by Occasion of the Trespass and Ejectment aforesaid, as for his Costs and Charges by him put to about his Suit in this Behalf: And the Inquisition which shall be thereof taken, the Sheriff shall make appear to the Justices of the Lord the King at *Westminster* here, from the Day of St. *Michael* in three Weeks under his Seal and the Seals of them, *&c.* The same Day is given to the aforesaid *B.* (*naming the Plaintiff*) here, *&c.* And upon this the same *B.* prays the Writ of the Lord the King to be directed to the Sheriff of the County aforesaid, to cause him to have Possession of his Term aforesaid yet to come, of and in the Manor and Tenements aforesaid, with the Appurtenances; And it is granted to him, returnable here in the aforesaid Term, *&c.*

Writ of Inquiry awarded.

A Writ of Possession awarded.

See for the Writ of Possession after.

Nil dicit cum remittit dampna.

If your Judgment be with a Remittit Dampna, *then after the Words*, thereof undefended, *add*, **Therefore it is considered**, that the aforesaid *E.* do recover against the aforesaid *A.* his Term aforesaid yet to come of and in the Manor and Tenements aforesaid, with the Appurtenances and his Damages, by Occasion of the Trespass and Ejectment aforesaid to be adjudged to him, *&c.* And thereupon the aforesaid *A.* freely here in Court confesses, *(declares)* that he will not further proceed against the aforesaid *A.* for any Damages to be adjudged to him, by Occasion of the Trespass and Ejectment aforesaid; but that he freely here in Court remits and releases all such Damages so adjudged to him; **Therefore** the aforesaid *A.* from the same Costs may be quitted and go thereof without a Day, *&c.* And upon this, the aforesaid *E.* prays a Writ of the Lord the King, to be directed to the Sheriff of the County aforesaid, to cause him to have Possession of his Term aforesaid yet to come of and in the Manor and Tenements aforesaid, with the Appurtenances; And it is granted to him, returnable here from the Day of St. *Michael* in three Weeks, *&c.*

The Act of Parliament 5 *&* 6 *W.* *&* *M.* says, Six Shillings and eight-pence shall be paid upon signing Judgment to the proper Officer who signeth the same, in full Satisfaction of the *Capiatur* Fine, and all Fees due for or concerning

Com. Pleas. concerning the ſame; which ſaid Officer ſhall make an Increaſe to the Plaintiff of ſo much in his Coſts, to be taxed againſt the Defendant.

Cogn. Action'.

And the aforeſaid *A.* by *T. H.* his Attorney comes and defends the Force and Injury, when, *&c.* and ſaith that he cannot deny the Action aforeſaid of the aforeſaid *C.* nor but he owes the ſame *C.* the aforeſaid 10 *l.* (*If upon Bond, then ſay*, and ſaith, That he cannot deny but the Writing aforeſaid is the Deed of the ſaid *A.* nor but that he owes to the ſame *C.* the aforeſaid 10 *l.*) in Manner and Form as the aforeſaid *C.* hath above declared againſt him; **Therefore it is conſidered**, that the aforeſaid *C.* do recover againſt the aforeſaid *A.* his Debt aforeſaid, and his Damages occaſioned by detaining of that Debt, to fifty Shillings, adjudged by the Court here to the ſame *C.* on his Aſſent: And the aforeſaid *A.* in Mercy, *&c.*

Signed—Day of—in the ſixth Year of King George. *Mercy.*

Note; The common Coſts are 40 *s.* unleſs it be by Original, and then uſually 50 or 60 *s.*

Note, That upon a Judgment by Warrant of Attorney, there is no need of an Original, if the Plaintiff have a Releaſe of Errors.

If the Defendant hath pleaded *per minas*, or *per dures* to the Declaration, and the Plaintiff replies, *That he was of his own Right at large*, and Iſſue thereon; and after this, the Defendant is minded to confeſs the Action, then enter it thus.

At which Day come the Parties aforeſaid by their Attornies aforeſaid; and upon this the aforeſaid *A.* withdrawing his Verification aforeſaid by him above pretended ſaith, That he cannot deny the ſaid Action of the aforeſaid *C.* nor but he at the Time of executing the Writing aforeſaid was of his own Right at large, and that he made the ſaid Writing of his own mere and free Will to the aforeſaid *A.* and not thro' the Fear of Threats, as he, the aforeſaid *A.* hath above alledged: **Therefore it is conſidered** that the aforeſaid *C.* do recover, *&c.* (*as before.*)

Com. Pleas.

Relicta Verificatione.

Cognovit Actionem.

If after Non eſt Factum *pleaded, then ſay, as next before unto.*——Nor but the Writing aforeſaid is the Deed of the ſaid *A.* nor but he owes to the aforeſaid *C.* the aforeſaid 10 *l.* in Manner and Form as the aforeſaid *C.* above complains againſt him: **Therefore it is conſidered,** (*as above.*)

Non Sum Informatus. (*I am not informed.*)

In Caſe.

And the aforeſaid *A. B.* by *T. H.* his Attorney comes and defends the Force and Injury, when, *&c.* And the ſame Attorney ſaith, That he is not informed by the ſame *C.* of any Anſwer for the ſame *C.* to the aforeſaid *A.* in the Plaint aforeſaid to be given, and ſaith nothing elſe therein; whereby the ſame *A.* remains againſt the aforeſaid *C.* without his Defence

Com. Pleas. fence therein: Wherefore the ſame *A.* ought to recover his Damages by Occaſion of the Premiſſes againſt the aforeſaid *C.* But becauſe it is not known what Damages the aforeſaid *A.* hath ſuſtained, by Occaſion of the Premiſſes, the Sheriff is commanded that by the Oaths of twelve honeſt and lawful Men of the County aforeſaid he diligently inquire what Damages the aforeſaid *A.* hath ſuſtained, as well by Occaſion of the Premiſſes, as for his Coſts and Charges by him put to about his Suit in this Behalf. And the Inquiſition which he ſhall make therein, the Sheriff ſhall make appear to the Juſtices of the Lord the King at *Weſtminſter*, from the Day of St. *Michael* in three Weeks, under his Seal, and the Seals of them, *&c.*

In Covenant.

Covenant. *Write as above unto* —— Wherefore the ſame *C.* ought to recover his Damages againſt the aforeſaid *A.* by Occaſion of the Breach of the Covenants aforeſaid: But becauſe it is unknown what Damages the ſame *C.* hath ſuſtained by Occaſion of the Breach of the Covenants aforeſaid, the Sheriff is commanded that he diligently inquire by the Oaths of twelve honeſt and lawful Men of the County aforeſaid, what Damages the aforeſaid *C.* hath ſuſtained, as well by Occaſion of the Breach of Covenant aforeſaid, as for his Coſts and Charges by him put unto about his Suit in this Behalf; and the Inquiſition which he ſhall take thereon, he ſhall

make appear to the Juſtices of the Lord the King at *Weſtminſter*, (*&c.*) Com. Pleas.

In Debt.

Write as above unto——without his Defence therein: **Therefore it is conſidered**, that the aforeſaid *C.* do recover againſt the aforeſaid *A.* his Debt aforeſaid, and his Damages by Occaſion of detaining that Debt, to 50 *s.* adjudged by the Court here to the ſame *C.* on his Aſſent: And the aforeſaid *A.* in Mercy, *&c.* *Debt.* *Mercy.*

In Ejectment.

Write as before unto——without his Defence therein——**Therefore it is conſidered**, that the aforeſaid *C.* ought to recover againſt the ſaid *A.* his Term aforeſaid (*or Poſſeſſion of his Term aforeſaid*) yet to come of and in the Manor and Tenements aforeſaid, with the Appurtenances; and alſo the ſame *C.* ought to recover his Damages by Occaſion of the Treſpaſs and Ejectment aforeſaid. But becauſe it is unknown what Damages the ſame *C.* hath ſuſtained by Occaſion of the Treſpaſs and Ejectment aforeſaid, the Sheriff is commanded, *&c.* (*as before in* Nil Dicit *in Ejectment.*)

If you have occaſion for a *Remittit Dampna*, enter as before by *Nil Dicit.*

In

In Treſpaſs.

The ſame, as firſt above; only for (*by Occaſion of the Premiſſes,*) you muſt ſay, (*by Occaſion of the Treſpaſs aforeſaid*) with the Award of the Writ of Inquiry.

In Treſpaſs and Aſſault.

You muſt ſay,—— *By Occaſion of the Treſpaſs and Aſſault aforeſaid.*

In Treſpaſs, Aſſault, and Impriſonment.

——— *By Occaſion of the Treſpaſs, Aſſault, and Impriſonment aforeſaid.*

See the late Act of Parliament, that all Statutes of Jeofails ſhall be extended to Judgments, to be entred upon *Confeſſion*, Nil Dicit, or *Non ſum Informatus*, in any Court of Record, and no ſuch Judgment ſhall be reverſed, nor any Judgment upon any Writ of Inquiry of Damages executed thereon, be ſtaid or reverſed for or by Reaſon of any Imperfections, Omiſſion, Defect, Matter or Thing whatſoever, which would have been aided and cured by any of the ſaid Statutes of Jeofails, in Caſe a Verdict of twelve Men had been given in the ſaid Action or Suit, ſo as there be an original Writ or Bill and Warrants of Attorney duly filed, *&c.*

Note; The Plaintiff's Attorney is to file his Warrant the ſame Term he declares, and the Defendant's the ſame Term he appears, *&c.*

Of Docquets.

NOTE; In the *Common Pleas*, when you carry in your Rolls you muſt docquet your Judgments and Entries on the Docquet of that Term of which they are entered, which is kept in the Office, to wit,

Says nothing, or is not informed, (*as the Caſe is,*) *over-head thus:* — *Nil dicit.*

Not informed in Debt. — *Non Informatus.*

Middleſex, to wit. *Reading* for *Jones.* *Hand* for *Clarke.* } Roll 383.

And ſo for the reſt, as you will ſee by the Docquets in the ſaid Roll, *&c.*

And *Note*; You may ſearch the Docquets to find any Judgment you have Occaſion for: but this is not ſoon found, unleſs you know the Attorney's Name that entered it.

But if you ſearch with the Clerk of the Eſſoins, you may eaſily find it; for he keeps an Alphabetical Table for that Purpoſe of the Parties Names.

Alſo *Note*, That when a Verdict is had at a Trial in the Country, you get the *Poſtea* returned from the Clerk of the *Poſtea's*; then ſtamp it, and carry it to the Prothonotary to ſign Judgment and tax Coſts; after which he gives it to the Clerk of the Judgments, who keeps it to enter up the Judgment on the Roll. — *Of ſigning Judgment, and taxing Coſts on Poſtea's.*

Com. Pleas.

And by *Reg. Cur. Trin.* 13 *Geo.* 2. After final Judgment has been ſigned upon *Poſtea's* and Inquiſitions, they muſt be immediately delivered to the Clerk of the Judgments of the reſpective Prothonotaries, and muſt not afterwards be taken out of the Office without Leave of the Court.

Writ of Inquiry.

Writ of Inquiry.

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* TO the Sheriff of *G.* Greeting: WHEREAS *A. B.* late of *C.* in your County, Yeoman, was attached to appear * in our Court, before our Juſtices at *Weſtminſter*, to anſwer unto *C. D.* of a Plea that WHEREAS, *&c.* (*as in the Original or Declaration, only inſtead of the Year of the King you ſay*, in the —— Year of our Reign; *and inſtead of ſaying*, in the County aforeſaid, *ſay*, in your ſaid County,) *&c.* to the Damage of the ſaid *C.* twenty Pounds, as it is ſaid: AND ſuch are the Proceedings therein in our ſame Court, that the aforeſaid *C.* ought to recover his Damages by Occaſion of the Premiſſes † againſt the aforeſaid *A.* but becauſe it is unknown what Damages the aforeſaid *C.* hath ſuſtained by Occaſion of the Premiſſes, (*if in Caſe for Words or Torts*; *but in Caſe on* Aſſumpſit *always ſay*, by Occaſion of the Non-performance of the Promiſes and Aſſumptions (*Undertakings*) aforeſaid): We command you, that by the Oaths of twelve honeſt and lawful Men of your County you diligently inquire

* *If at the Suit of a privileged Perſon, you ſay*, Was attached by our Writ of Privilege iſſuing out of our Court here, to appear, *&c.* to anſwer unto *C. D* Gent. one of the Attornies, *as in the Declaration.*

† For not performing the Promiſes and Aſſumptions (*Undertakings*) aforeſaid.

quire what Damages the ſaid *C.* hath ſuſtained as well by Occaſion of the Premiſſes, as for his Coſts and Charges by him put to about his Suit in this Behalf; and the Inquiſition which you ſhall make thereon do you make appear to our Juſtices at *Weſtminſter* (*the Return*) under your Seal, and the Seals of them by whoſe Oaths you ſhall make that Inquiſition; And have there the Names of them by whoſe Oaths you ſhall make that Inquiſition, and this Writ. **Witneſs** Sir *John Willes*, Knt. at *Weſtminſter*, the —— Day of —— in the —— Year of our Reign. Com. Pleas.

Cooke.

This Writ muſt be ſigned by the Prothonotary and ſealed at the Seal-Office, then carry it to the Sheriff two Days before you intend to execute it, and indorſe the Place on the Writ where you have given Notice of its being executed, and he will cauſe a Jury to be returned. The Fees of executing it in *Middleſex* is 1 *l.* 10 *s.* 4 *d.* Two or three Days afterwards call for a Return, and then get the Inquiſition ſtamped with a double Half Crown Stamp; and when four Days after the Return of the Inquiry are expired, carry it to the Prothonotary to tax the Coſts and ſign Judgment, for which you pay 5 *s.* 4 *d.* Then give it to the Clerk of the Judgments, and you pay him 2 *s.* for entring up the final Judgment; then make out what Execution you think proper.

Note; No Rule is given upon the Inquiſition as in *B. R.* tho' you muſt ſtay four Days after the Return of the Inquiry before you ſign Judgment.

Com. Pleas.

A Writ of Inquiry where the Plaintiff died after Judgment, and before the Writ of Inquiry.

GEORGE the Second, (*&c.*) TO the Sheriff of —— Greeting: WHEREAS *E. P.* Widow, Executrix of the laſt Will and Teſtament of *M. P.* her late Husband, deceaſed, late one of the Attornies of this Court, in the Term of the Holy *Trinity* laſt paſt proſecuted out of our Court of Common Bench, againſt *A. B.* late of *London*, Diſtiller, our Writ of *Capias* in our ſaid Court of Common Bench, before our Juſtices of the ſame Court, in an Action of Treſpaſs upon the Caſe, to which ſaid Writ the ſaid *A.* appeared at the Return of the ſame; and thereupon the ſaid *E.* as Executrix of the ſaid laſt Will and Teſtament of the ſaid *M.* her late Husband, deceaſed, declared againſt the ſaid *A.* in —— Term laſt in this our ſaid Court of Common Bench, for that WHEREAS (*and ſo go on with the Declaration*;) AND thereupon ſuch Proceedings were had, that it was conſidered here in our ſaid Court of Common Bench by our Juſtices of the ſame Court, that the ſame *E.* ought to cover her Damages occaſioned by not performing of the ſaid ſeveral Promiſes and Undertakings made by the ſaid *A.* to the ſaid *M.* in his Life-time in Form aforeſaid; but becauſe it was not known what Damages the ſaid *E.* had ſuſtained by Reaſon of the Premiſſes; THEREFORE we commanded you, that by the Oaths of twelve honeſt and lawful Men

Men of your County you ſhould diligently inquire what Damages the ſaid *E.* had ſuſtained as well by reaſon of the Premiſſes, as for her Expences and Coſts laid out by her about her Suit in that Behalf; and that the Inquiſition which you ſhould take thereon you ſhould cauſe to be before our ſaid Juſtices of our ſaid Common Bench at *Weſtminſter* on the Morrow of St. *Martin* under our Seal, and the Seals of thoſe by whoſe Oaths who ſhould take ſuch Inquiſition, as by the Record and Proceedings thereon now remaining in our ſaid Court of Common Bench, before our ſaid Juſtices at *Weſtminſter* manifeſtly may appear: Nevertheleſs an Inquiry of the ſaid Damages yet remains to be made, and the ſaid *E.* is now dead, as we have received Information from *R. B.* Adminiſtrator of all and ſingular the Goods and Chattels, Rights and Credits which were of and belonging to the ſaid *M.* at the Time of his Death unadminiſtred by the ſaid *E.* and therefore at the Inſtance of the ſaid *R.* in our ſaid Court before our ſaid Juſtices at *Weſtminſter*, by our Writ of *Scire facias* iſſuing out of this our ſaid Court of Common Bench, we lately commanded you, that by honeſt and lawful Men of your Bailiwick you ſhould cauſe it to be known to the ſaid *R.* that he was to have been before our ſaid Juſtices of this our ſaid Court of Common Bench at *Weſtminſter* in fifteen Days of St. *Martin*, to ſhew Cauſe if he knew of or had any Thing to ſay for himſelf why the ſaid *R.* ſhould not recover the ſaid Damages by reaſon of the Premiſſes againſt the ſaid *A.* Com. Pleas.

Com. Pleas. according to the Form of the Statute in ſuch Caſe made and provided, if the ſaid *A.* thought it expedient ſo to do: **At which Day** the ſaid *R.* came into our ſaid Court before our ſaid Juſtices at *Weſtminſter*, and you our ſaid Sheriff at the ſame Day made a Return to our ſaid Writ, that by *E. S.* and *J. R.* honeſt and lawful Men of your Bailiwick, you had cauſed it to be known to the ſaid *R.* that he ſhould have been before our ſaid Juſtices at *Weſtminſter* at the Day and Place aforeſaid, to have ſhewn Cauſe in Form aforeſaid if he had thought it expedient for him ſo to have done, as by our ſaid Writ he was commanded to do; which ſaid *R.* being ſo warned and ſolemnly required did not come at that Day, but made Default; wherefore it was conſidered and adjudged in our ſaid Court of Common Bench by our Juſtices of the ſame Court, that the ſaid *R.* ought to recover his ſaid Damages occaſioned by the Reaſon of the Premiſſes. But becauſe it is unknown what Damages had been ſuſtained by the ſaid *E.* by Reaſon of the Premiſſes; **Therefore** we command you, that by the Oaths of twelve honeſt and lawful Men of your Bailiwick, you diligently inquire what Damages the ſaid *E.* ſuſtained as well by reaſon of the Premiſſes, as for her Expences and Coſts laid out by her about her ſaid Suit in that Behalf; and the Inquiſition which you ſhall take thereupon do you make appear before our ſaid Juſtices of our ſaid Court of Common Bench at *Weſtminſter*, on the Octave of St. *Hillary*, under your Seal and Seals of thoſe by whoſe Oaths

Oaths you ſhall take ſuch Inquiſition; And have you there likewiſe the Names of thoſe Perſons by whoſe Oaths you take that Inquiſition and this Writ. Witneſs Sir *John Willes*, Knt. (*&c.*) Com. Pleas.

You muſt give Notice of the executing of this Writ after the ſame Manner as is obſerved before in the King's Bench *Vide* the Times of giving Notice before, where the Times of giving Notice of Trial is mentioned.

Capias ad Satisfaciendum.

In Caſe ſur Aſſumpſit.

George the Second, (*&c.*) To the Sheriff of *S.* Greeting: We command you, that you take *A. B.* late of *C.* in your County, Yeoman, if he may be found in your Bailiwick, and ſafely keep him, ſo that you may have his Body before our Juſtices at *Weſtminſter*, (*the Return*) to ſatisfy unto *C. D.* ten Pounds and nine Shillings which were adjudged to the ſame *C.* in our ſame Court before our Juſtices at *Weſtminſter*, (*if in Caſe ſay,*) for his Damages which he hath ſuſtained on Occaſion of a certain Treſpaſs on the Caſe done and committed by the ſaid *A.* to the ſaid *C.* at *E.* in your County, whereof, (*&c.*) for his Damages which he hath ſuſtained on Occaſion of not performing ſeveral Promiſes and Undertakings made by the aforeſaid *A.* to the ſame *C.* at *E.* in your County, whereof he is convicted; And have you there this Writ. Witneſs, &c. *Signing* 4 d. *Otherwiſe upon Promiſe.*

Com. Pleas.

If in Covenant,

Or, by Occaſion of the Breach of a certain Covenant.

Say as before; *and after the Words*, for his Damages which he hath ſuſtained, *ſay*, by Occaſion of the Breach of a certain Covenant (*or* certain Covenants) made between them, according to the Force, Form and Effect of certain Indentures, (*or* certain Articles, *as the Caſe is*,) made between them, whereof the ſaid *A.* is convicted; And have, *&c.* (*as in others*)

Ca. Sa. *In Debt.*

——— To ſatisfy unto *C. D.* as well for a certain Debt of twenty Pounds, which the ſaid *C. D.* in our Court before our Juſtices at *Weſtminſter* hath recovered againſt him, as alſo *ſixty Shillings* (*put the Coſts allowed*) which were adjudged to the ſaid *C. D.* in our ſaid Court for his Damages which he hath ſuſtained by Occaſion of detaining that Debt, whereof he is convicted; And have you there this Writ. **Witneſs**, (&c.)

Signing 4 d.

Teſtatum Ca. Sa'.

Signing 8 d.

Write as before in the other Ca. Sa. *only directing to another County, and making a new Return*,) whereof he is convicted; And whereupon our Sheriff of *S.* hath returned to our Juſtices at *Weſtminſter* * *On the Morrow of the Aſcenſion*

* *The Return in the firſt* Ca. Sa. *upon which the* Teſtatum *is grounded.* But Note; *The Return of the firſt* Ca. Sa. *is not now ſet out in the reſt, but inſtead thereof ſay*, (a certain Day now paſt.)

Aſcenſion of our Lord laſt paſt, that the aforeſaid *A. B.* is not to be found in his Bailiwick; and thereupon it is atteſted in our ſame Court, that he hides, wanders and skulks in your County; And have you there this Writ. **Witneſs**, &c. Com. Pleas.

Ca. Sa. *In Treſpaſs and Aſſault.*

—— To ſatisfy unto *C. D.* for ten Pounds which were adjudged to the ſaid *D.* in our Court before our Juſtices at *Weſtminſter*, for his Damages which he hath ſuſtained by Occaſion of a certain Treſpaſs and Aſſault committed by the ſaid *A.* upon the ſaid *C. D.* with Force and Arms and againſt our Peace, at *B.* in your County, whereof the ſaid *A.* is convicted; And have you there this Writ. **Witneſs**, &c.

Upon a Nonſuit in Caſe.

—— To ſatisfy to *A. B.* late of, (*&c.*) Gentleman, for One hundred Shillings, which were adjudged to the ſaid *A. B.* in our Court before our Juſtices at *Weſtminſter* by the Diſcretion of our ſaid Juſtices, for his Coſts and Charges which he hath ſuſtained in a certain Plea of Treſpaſs upon the Caſe, commenced in the ſame Court by the aforeſaid *C. D.* againſt the ſame *A. B.* according to the Form of the Statute in that Caſe made and provided againſt Parties, Plaintiffs, who do not proſecute their Writs in ſuch Pleas and proceed on the ſame

Com. Pleas. same, whereof he is convicted; And have there this Writ. Witness, &c.

The like in Debt.

—— To make Satisfaction unto *A. B.* late of, (*&c.*) Gent. for One hundred Shillings, which were adjudged to the same *A.* in our Court before our Justices at *Westminster* by the Discretion of our same Justices, according to the Form of the Statute thereof made and provided, for his Costs and Charges which he hath sustained; for this, that the aforesaid *C. D.* hath not prosecuted his Writ issued out of our Court by the said *C.* against the aforesaid *A.* in a certain Plea of Debt upon Demand for forty Pounds, whereof the said *C.* is convicted; And have there this Writ. Witness Sir *John Willes*, Knt. at *Westminster*, (*as in others.*)

Upon the Plaintiff's Nonsuit at the Assizes.

As next before unto —— For his Costs and Charges which he hath sustained for the false Complaint of the aforesaid *C.* in a certain Plea of Debt upon Demand for forty Pounds prosecuted in our Court by the said *C.* against the aforesaid *A.* whereof he is convicted; And have there, *&c.* (*as in others.*)

Upon

Upon a Nonſuit in Ejectment.

Say as before in Debt to —— For his Coſts and Charges which he hath ſuſtained; for this, that the aforeſaid *C.* hath not proſecuted his Writ in a certain Plea of Treſpaſs and Ejectment commenced in our ſaid Court by the ſame *C.* againſt the aforeſaid *A.* whereof the ſaid *C.* is convicted; And have, *&c.*

Upon a Nonſuit in Treſpaſs.

As next before, only ſay, —— Which he hath ſuſtained; for this, that the aforeſaid *C.* hath not proſecuted his Writ in a certain Plea of Treſpaſs committed by the ſaid *C. &c.* *(as in others.)*

Capias ad Satisfaciendum *againſt an Executor of his proper Goods upon a* Devaſtavit *returned by the Sheriff.*

—— Greeting: **We command** you, that you take *E. F.* late of —— in your County —— Executor of the laſt Will and Teſtament of *A. B.* if he may be found in your Bailiwick, and him ſafely keep, ſo that you have his Body before our Juſtices at *Weſtminſter* (*the Return*) to ſatisfy unto *C. D.* as well for a certain Debt of thirty Pounds, which the ſame *C.* in our Court before our Juſtices at *Weſtminſter* hath recovered againſt him, as alſo

Com. Pleas. alſo for thirty Shillings which were adjudged in our ſaid Court to the ſame *C.* for his Damages which he hath ſuſtained by Occaſion of the detaining of that Debt, whereof he is convicted; And whereupon it is conſidered in our ſame Court, that the aforeſaid *C.* have Execution againſt the aforeſaid *E. F.* the Executor, for the Debt and Damages aforeſaid, to be levied of the proper Goods and Chattels of the ſaid *E. F.* becauſe the aforeſaid *E. F.* hath waſted, converted and diſpoſed of to his own Uſe diverſe Goods and Chattels which were the aforeſaid *A. B.*'s the Teſtator at the Time of his Death, which came to the Hands of the aforeſaid *E. F.* after the Death of the aforeſaid *A. B.* to be adminiſtred, to the Value of the Debt and Damages aforeſaid, ſo as you yourſelf to our Juſtices at *Weſtminſter* (*ſuch a Return*) laſt paſt hath returned; And have you there this Writ. Witneſs Sir *John Willes*, Knt. (*&c. as in others.*)

Note, That upon a Judgment againſt an Executor or Adminiſtrator a *Ca' Sa'* ought not to iſſue out, but a *Fi' Fa'* of the Goods of the Teſtator; except a *Devaſtavit* be returned, and then a *Ca' Sa'* lies againſt the Body, or a *Fi' Fa'* againſt their Goods.

Ca. Sa. poſt Sci. Fa. *upon Defendant's Default.*

—— Whereof he is convicted; And whereupon it is conſidered in our ſame Court, that the aforeſaid Plaintiff have Execution againſt the

the aforeſaid Defendant for the Debt and Damages aforeſaid, by the Default of the ſaid *D.* And have, (*&c.*) Com. Pleas.

See afterwards *Fi' Fa'* and *Sci' Fa'*.

Fieri Facias.

Fieri Facias *in Caſe, upon Promiſes not performed.*

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* To the Sheriff of *S.* Greeting: We command you, that you cauſe to be made of the Goods and Chattels of *A. B.* late of, *&c.* in your Bailiwick ten Pounds, which were adjudged to *C. D.* in our Court before our Juſtices at *Weſtminſter*, for his Damages which he hath ſuſtained by Occaſion of not performing certain Promiſes and Aſſumptions (*Undertakings*) to the ſame *C.* by the aforeſaid *A.* at *E.* in your County; And have you that Money before our Juſtices at *Weſtminſter* On the Morrow of the Holy *Trinity*, to render to the aforeſaid *C.* for his Damages aforeſaid, whereof the ſaid *A.* is convicted; And have you there this Writ. Witneſs, &c.

Stamp treble 6 d.
This Writ muſt be ſigned in the Prothonotary's Office, where Declaration is filed, for which you pay 4 d. *and ſealing at the Seal-Office* 7 d. *Warrant* 2 s. 4 d.

Another.

—— Were adjudged to the ſaid *C.* for his Damages which he hath ſuſtained by Occaſion

Com. Pleas. ſion of a certain Treſpaſs upon the Caſe, done and committed by the aforeſaid *A.* upon the ſame *C.* at *E.* in your County, whereof the ſaid *A.* is convicted; And have you that Money, *&c.* (*as in others.*)

For Words.

Words. ——By Occaſion of the ſpeaking and publiſhing of certain ſcandalous Words by the aforeſaid *A.* of the aforeſaid *C.* at *E.* in your County; And have you that Money, (*&c.*)

In Covenant.

Covenant. *Say as before unto* ——For his Damages which he hath ſuſtained by Occaſion of the Breach of a certain Covenant (*or Covenants*) made between the aforeſaid *A.* and the aforeſaid *C.* according to the Force, Form, and Effect of certain Articles (*or of certain Indentures*, &c. *as the Caſe is*) And have that Money, (*&c.*)

In Debt.

Debt. George, *&c.* (*as before*) ——We command you that you cauſe to be made of the Goods and Chattels of *A. B.* late of *E.* in your County, Gentleman *, in your Bailiwick, as well a certain Debt of 40 *l.* which *C. D.* in our Court, before our Juſtices at *Weſtminſter*, hath recovered againſt him, as alſo ſixty Shillings, which were adjudged to the ſame *C.* in our ſame Court, for his Damages which he hath ſuſtained by Occaſion

* Otherwiſe called, *if upon a Specialty.*

caſion of detaining that Debt; And have you that Money, &c. (*as in others*) —— to render to the aforeſaid *C.* for his Debt and Damages aforeſaid, whereof the ſaid *A.* is convicted; And have, (&c.) Com. Pleas.

In Ejectment for Damages.

George, &c.——That you cauſe to be made of the Goods and Chattels of *A. B.* late of——in your County in your Bailiwick 10*l.* which were adjudged to *C. D.* in our Court before our Juſtices at *Weſtminſter*, for his Damages which he ſuſtained by Occaſion of a certain Treſpaſs and Ejectment committed by the aforeſaid *A.* upon the aforeſaid *D.* with Force and Arms, and againſt our Peace at *C.* in your County; And have that Money, &c. (*as before in Caſe.*)

In Replevin.

——By Occaſion of the taking and unjuſtly detaining of the Cattle of the ſaid (*the Plaintiff*) at *E.* in a certain Place called *G.* whereof he is convicted; And have there, (&c.)

In Treſpaſs.

—— By Occaſion of a certain Treſpaſs committed by the aforeſaid *A.* upon the ſame *C.* with Force and Arms, and againſt our Peace at *E.* in *Treſpaſs.*

Com. Pleas. *E.* in your County; And have that Money, (*&c.*) for his Damages, (*&c.*)

In Treſpaſs, where ſeveral Damages are recovered againſt two Defendants.

GEORGE the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* TO the Sheriff of *M.* Greeting. WE COMMAND you that you cauſe to be made of the Goods and Chattels of *C. D.* late of *G.* in your County, Yeoman, in your Bailiwick 4 *l.* for his Damages which *A. B.* hath ſuſtained by Occaſion of a certain Treſpaſs committed by the aforeſaid *C.* on the ſaid *A.* and alſo that you cauſe to be made of the Goods and Chattels of *E. F.* late of the ſame Place in your County, Yeoman, in your Bailiwick, ſixty Shillings for the Damages of the aforeſaid *A.* which he hath ſuſtained by Occaſion of a certain Treſpaſs committed by the aforeſaid *E.* on the ſaid *A.* and alſo that you cauſe to be made of the Goods and Chattels of them the ſaid *C.* and *E.* in your Bailiwick 10 *l.* for his Coſts and Charges by him expended about his Suit in this Behalf; And have that Money before our Juſtices at *Weſtminſter* in three Weeks from the Day of St. *Michael*, to render to the aforeſaid *A.* for his Damages aforeſaid, whereof he is convicted; And have there, (*&c.*)

Teſtatum

Teſtatum Fieri Facias *in Debt.*

Write as before in a General Fieri Facias *in Debt unto* ——he is convicted: **And whereupon** our Sheriff of *S.** hath returned to our Juſtices at *Weſtminſter* at a certain Day now paſt, that the aforeſaid *A.* hath no Goods or Chattels in his Bailiwick, whereby the Debt and Damages aforeſaid, or any Part thereof, he could cauſe to be made or levied; and thereupon it is teſtified in our ſame Court, that the ſame *A.* has ſufficient Goods and Chattels in your County, whereby the Debt and Damages aforeſaid may be cauſed to be made and levied; And have you there this Writ. **Witneſs**, *&c.*

* *Sheriff of the County in the firſt Writ and Return thereof.*

Fieri Facias *againſt an Adminiſtrator.*

—**We command** you, That you cauſe to be made of the Goods and Chattels which were *R. G.*'s who died inteſtate, as it is ſaid, at the Time of his Death in the Hands of *A. G.* Widow, Adminiſtratrix of the Goods and Chattels which were of the ſame *R.* being in your Bailiwick, as well a certain Debt of 10 *l.* which *J. S.* Gent. in our Court before our Juſtices at *Weſtminſter* hath recovered againſt her, as alſo 20 *l.* which were adjudged to the ſame *A.* in our ſame Court, for his Damages which he hath ſuſtained by Occaſion of the detaining of that Debt, if the ſame *A.* hath ſo much Goods and Chattels which were the aforeſaid *R.*'s at the Time of his Death in her Hands to be adminiſtred

Com. Pleas. miniſtred: And if ſhe hath not, then the Damages aforeſaid to be levied of the proper Goods and Chattels of the aforeſaid *A.* And have you that Money, *&c.* (*as in others.*)

Note; If any Executor plead *Ne unques Executor*, and it be found for the Plaintiff, the *Fieri Facias* ſhall be of the proper Goods; but if he plead *Plene Adminiſtravit*, and it be found for the Plaintiff, then the *Fieri Facias* ſhall be of the Goods of the Teſtator; and if the Executor has ſold the Teſtator's Goods, and taken Money, or other Goods for the ſame, then he is, 'tis ſaid, upon the *Fieri Facias*, to take other Goods of the Executor, to the Value of the Goods ſold. 14 *H.* 4. *Fitz. Ret.* 55.

See after upon a *Devaſtavit* returned.

Alſo, for a further Satisfaction of Execution, *&c.* upon all Manner of Writs. See *Dalton's Office of Sheriffs*, laſt publiſhed; *The Compleat Sheriff*; *Retorna Brevium*; *Greenwood* of Courts.

Fieri Fac. *againſt Executors in Covenant.*

——**We command** you that you cauſe to be made of the Goods and Chattels of *J. B.* (*&c.*) in the Hands of *W. B.* and *R. B.* Executors of the laſt Will and Teſtament of the ſame *J. B.* being in your Bailiwick, as well 100*l.* which were adjudged to *A. M.* in our Court before our Juſtices at *Weſtminſter*, for his Damages which he hath ſuſtained by Occaſion of the Breach of a certain Covenant made between the

the aforeſaid *J. B.* deceaſed, and the aforeſaid *A.* as alſo five Marks, which were adjudged to the ſame *A.* in our ſame Court for his Coſts and Charges by him put to about his Suit in this Behalf; if the ſame *W. B.* and *R. B.* have ſo much Goods and Chattels which were *J. B.*'s at the Time of his Death in their Hands to be adminiſtred; and if they have not, then the Damages aforeſaid for his Coſts and Charges to be levied of the proper Goods and Chattels of them the ſaid *W. B.* and *R. B.* And have that Money before our Juſtices at *Weſtminſter*, &c. (*as in others.*) Com. Pleas.

Fieri Facias, *by Default after* Nihil *returned, on* Scire Fac. poſt Annum et Diem.

— Whereof the ſaid *C.* is convicted: And whereupon it is conſidered in our ſame Court before our Juſtices at *Weſtminſter*, that the aforeſaid *W.* have Execution againſt the aforeſaid *C.* by the Default of him the ſaid *T.* And have, (*&c.*)

Fieri Facias *of the proper Goods, after a* Devaſtavit *is returned by Inquiſition.*

George the Second, *&c.* — Greeting: We command you, that you cauſe to be made of the Goods and Chattels of *J. S.* Executor of the laſt Will and Teſtament of *T. S.* in your Bailiwick, as well a certain Debt of Fieri Facias de bonis propriis poſt devaſtavit returned. per Inquiſitionem.

Com. Pleas. 100 *l.* which *W. A.* Esq; in our Court before our Justices at *Westminster* recovered against the aforesaid *T.* in his Life, as also sixty Shillings which were adjudged to the same *W.* in our Court for his Damages which he hath sustained by Occasion of detaining that Debt; and have that Money before our Justices at *Westminster*, On the *Octave* of St. *Hillary* to render to the aforesaid *W.* for the Debt and Damages aforesaid, whereof the aforesaid *T.* in his Life was convicted. And whereupon it is considered in our said Court, before our Justices at *Westminster*, that the aforesaid *W.* have Execution against the aforesaid *J.* of the Debt and Damages aforesaid to be levied of the proper Goods and Chattels of the aforesaid *J.* by the Default of the said *J.* for that the aforesaid *J.* hath sold and converted and disposed of divers Goods and Chattels to his proper Use, which were the aforesaid *T.*'s at the Time of his Death in his Hands to be administred, to the Value of the Debt and Damages aforesaid, as by a certain Inquisition indented taken before you at——, *&c.* the——Day of—— last past, by the Oaths of honest and lawful Men of your Bailiwick, (*from the Day of St.* Martin *in fifteen Days*,) last past, returned before our aforesaid Justices at *Westminster*, remaining of Record, more fully appears: And have there this Writ. **Witness**, (*&c.*)

Elegit

Elegit in Debt.

GEORGE, (*&c.*) To the Sheriff of S. Greeting. Whereas *A.* lately in our Court before our Juſtices at *Weſtminſter*, by the Conſideration of the ſame Court recovered againſt *C. D.* late of, (*&c.*) as well a certain Debt of Two hundred Pounds, as One hundred Shillings which were adjudged to the ſame *A.* in our ſaid Court for his Damages which he hath ſuſtained by Occaſion of detaining that Debt, whereof the ſaid *C.* is convicted. Afterwards the ſaid *A.* came into our ſaid Court, and according to the Form of the Statute in that Caſe made and provided hath elected to have delivered to him all the Goods and Chattels of the aforeſaid *C.* except the Oxen and Beaſts of his Plough, and likewiſe a Moiety of all his Lands and Tenements in your Bailiwick, to hold to him the Goods and Chattels aforeſaid, as his own proper Goods and Chattels; and alſo to hold the Moiety aforeſaid as his own Freehold to him and his Aſſigns, according to the Form of the Statute aforeſaid, until the Debt and Damages aforeſaid be thereof levied: And therefore we command you that without Delay you cauſe all the Goods and Chattels of the aforeſaid *C.* except the Oxen and Beaſts of his Plough, and likewiſe a Moiety of all his Lands and Tenements in your Bailiwick, of which the ſame *C.* on the Morrow of the *Holy Trinity* in the ſixth Year of our Reign, on which Day the Judgment thereof

Elegit de Debito.

Com. Pleas. was given, or ever after, was ſeiſed, to be extended and delivered at a reaſonable Price to the ſaid *A.* to hold to him the Goods and Chattels aforeſaid, as his own proper Goods and Chattels: And alſo to hold the Moiety aforeſaid, as his own Freehold to him and his Aſſigns, according to the Form of the Statute aforeſaid, until the Debt and Damages aforeſaid ſhall be thereof levied; and that you make appear how you ſhall have executed this our Precept to our Juſtices at *Weſtminſter*, from the Day of S. *Michael* in three Weeks under your Seal, and the Seals of them by whoſe Oaths you ſhall make that Extent and Appraiſement; And have there this Writ. **Witneſs**, *&c.*

Elegit *for Damages in Treſpaſs.*

George, (*&c.*) **Whereas** *A. B.* lately in our Court before, (*&c.*) by Conſideration of the ſame Court hath Execution againſt *C. D.* late of, (*&c.*) for 20 *l.* which were adjudged to the ſame *A.* in our ſame Court for his Damages which he hath ſuſtained by Occaſion of a certain Treſpaſs committed by the aforeſaid *C.* upon the ſame *A.* with Force and Arms, and againſt our Peace at *E.* in your County, whereof he is convicted. **Afterwards** the ſame *A.* came into our ſaid Court, (*&c. as before, unto*) until the Damages aforeſaid be thereof levied: **Therefore** we command you, that without Delay you cauſe all the Goods and Chattels which were the aforeſaid *C.*'s (*ſuch a Day*) laſt paſt, on which Day the aforeſaid *A.* firſt obtained Execution of the Judgment aforeſaid, and likewiſe a Moiety of all the Lands and Tenements

nements of which the ſame *C.* or any Perſon or Perſons to the Uſe of the ſaid *C.* (*ſuch a Day*) or at any Time afterwards were ſeiſed to the aforeſaid *A.* to be extended, *&c.* (*as before.*) Com. Pleas.

Elegit *after an* Elegit.

George, &c. (*as before, reciting the firſt* Elegit *unto,*) —— until the Debt and Damages aforeſaid be thereof levied, and how you ſhould have executed that our Precept you ſhould make appear to our Juſtices at *Weſtminſter* on the *Octave* of St. *Hillary* laſt paſt: **And** you have returned to our Juſtices at *Weſtminſter* at that Day a certain Inquiſition taken before you at the Caſtle of *E.* (*ſuch a Day*) laſt paſt, by the Oaths of twelve, (*&c.*) by which it is found that the aforeſaid *C.* was ſeiſed of the Manor, *&c.* (*Reciting the Return of the Inquiſition.*) Upon which the aforeſaid *A.* came into our ſame Court, ſaying, That the aforeſaid *C.* at the Time of giving the Judgment aforeſaid, and afterwards, had divers Lands and Tenements in your County of the yearly Value of 40 *l.* beſides the aforeſaid Manors, (*&c.*) above ſpecified in the Inquiſition aforeſaid: And alſo was poſſeſſed of divers Goods and Chattels in your County to the Value of 30 *l.* which you yourſelf could have extended and appraiſed, and delivered to the aforeſaid *A.* **And therefore** we command you as before we have commanded you, that you forthwith cauſe all the Goods and Chattels of the aforeſaid *C.* beſides the Oxen and Beaſts of his Plow, and likewiſe a Moiety of all the

Com. Pleas. Lands and Tenements of the ſaid *C.* in your County, beſides the aforeſaid Manors in the Inquiſition aforeſaid above ſpecified, of which the ſame *C.* at the Time of giving the Judgment aforeſaid, or at any Time afterwards, was ſeiſed or poſſeſſed, and alſo that you cauſe a Moiety of the Manors in the Inquiſition aforeſaid ſpecified, to be extended and delivered to the aforeſaid *A.* at a reaſonable Price, to hold to him and his Aſſigns as his Freehold, according to the Form of the Statute aforeſaid, until the Debt and Damages aforeſaid ſhall be thereof levied: And make appear in what Manner you ſhall have executed this our Precept to our Juſtices at *Weſtminſter*, from the Day of Saint *Michael* in three Weeks, under your Seal and the Seals of them, *&c.* (*as before.*)

A Writ of Poſſeſſion.

Signing 3 s. 4 d.

GEORGE, (&c) To the Sheriff of *S.* Greeting: Whereas *A. B.* lately in our Court before our Juſtices at *Weſtminſter*, by the Conſideration of the ſame Court recovered his Term as yet to come of and in two Meſſuages, (*&c. as in the Declaration*) with the Appurtenances in *E.* in your County, againſt *C. D.* late of *F.* in your County, Gent. which *G. H.* Gent. on the fifteenth Day of *June* in the ſixth Year of our Reign, had demiſed to the aforeſaid *A.* to have and to hold the Tenements aforeſaid, with the Appurtenances, to him and his Aſſigns, from the twenty-firſt Day of *January* then laſt paſt, until the full End and Term of five Years from

from thence next following, and fully to be compleat and ended, which is not yet paſt; and whereof the aforeſaid *C.* hath expelled and amoved the ſaid *A.* from his Poſſeſſion thereof, and the ſame *A.* hath ejected from his Farm aforeſaid: **And therefore** we command you, that without Delay you cauſe the aforeſaid *A.* to have his Poſſeſſion of his Term aforeſaid yet to come of and in the Tenements aforeſaid with the Appurtenances; And how you ſhall have executed this our Precept make appear to our Juſtices at *Weſtminſter*, from the Day of Saint *Michael* in three Weeks; And have you there this Writ. **Witneſs**, (*&c.*) Com. Pleas.

Fieri Facias *for Coſts upon a Writ of Poſſeſſion.*

If you add a Fieri Facias *for Coſts, after the Return of the Writ, ſay,* —— **We alſo command** you, that you cauſe to be made of the Lands and Chattels of the aforeſaid *C.* in your Bailiwick ten Pounds, which were adjudged to the ſame *A.* in our ſame Court for his Damages which he hath ſuſtained by Occaſion of the Treſpaſs and Ejectment aforeſaid; and have that Money before our Juſtices at *Weſtminſter* at the aforeſaid Term, to render to the aforeſaid *A.* for his Damages aforeſaid, whereof he is convicted; And have there this Writ. **Witneſs**, &c.

Proceedings by and againſt Attornies.

How to ſue out Attachments of Privilege

IN Order to ſue out an Attachment of Privilege you muſt make out a *Præcipe*, and leave it at the Prothonotary's Office with the Defendants Names, not exceeding four Defendants, with the Return-day thereto, and the Day of Signing the ſame, together with the Agent's or Attorney's Name who ſues out the ſame; and every ſuch *Præcipe* muſt be entered by the Prothonotaries upon a Remembrance-Roll in their reſpective Offices, without Fee or Reward; and the Prothonotaries are not to ſign any Attachment of Privilege without ſuch *Præcipe* be left in the Office at the Time of Signing thereof. *Per Reg' Cur' H.* 11 *Geo.* 2.

Dorſetſhire, ſſ. **Attachment of Privilege** for *P. Q.* againſt *C. D. E. F. G. H.* and *J. K.*

Returnable *Wedneſday* after three
3 *Oct.* Weeks of St. *Michael.*
1740. *O.* Agent.

You carry this *Præcipe* and the Writ ready made out to the Prothonotary, who will ſign the Writ *gratis*, and you leave the *Præcipe* with him; then get it ſealed, which is likewiſe *gratis*.

Attach-

Com. Pleas.

Attachment of Privilege.

For an Attorney of the Common Pleas.

GEORGE, (*&c.*) To the Sheriff of *S.* Greeting: Attach *C. D. E. F.* (*&c.*) if they may be found in your Bailiwick, and ſafely keep them, ſo that you have their Bodies before our Juſtices at *Weſtminſter* on *Wedneſday next after three Weeks of St. Michael*, to anſwer unto *A. B.* Gent. one of the Attornies of our Court of the Bench, according to the Liberties and Privileges of the ſaid Court for ſuch Attornies, and other Miniſters of the ſame Bench, † from the Time whereof the Memory of Man doth not exiſt, uſed and approved of in the ſame, of a Plea of * Treſpaſs; And have you there this Writ. WITNESS, (&c.)

* Note; *Of a Plea of Treſpaſs, is not enough to hold to bail.*

Note; If the Defendant is to be ſerved with a Copy, you muſt ſubſcribe a Notice in like Manner as before on a *Capias*.

If the Action be bailable, and the Plaintiff has made Affidavit of his Debt, then ſay, *Of a Plea of Treſpaſs upon the Caſe*: The Sum ſworn to muſt be indorſed on the Writ.

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† A tempore quo non exiſtit memoria.

From the Time whereof the Memory of Man is not to the contrary.

For ſo long a Time as the Memory of Man is not to the contrary.

From Time immemorial.

From Time out of Mind.

For

For the Chief Prothonotary's Clerks.

—— To anſwer *A. B.* Gent. one of the Clerks of *George Cook*, Eſq; Chief Prothonotary of our Court of the Bench, according to the Liberties and Privileges of the ſaid Court for ſuch Clerks and other Miniſters of the ſame Bench, from the Time whereof, (*&c. as above.*)

For the Second Prothonotary's Clerk.

—— To anſwer *A. B.* Gent. one of the Clerks of —— *Thompſon*, Eſq; ſecond Prothonotary of our Court of the Bench, according to the Liberties, (*&c.*)

For the third Prothonotary's Clerk.

—— To anſwer *A. B.* Gent. one of the Clerks of —— *Borret*, Eſq; one of the Prothonotaries of our Court of the Bench, according to the Liberties, (*&c.*)

An Attachment againſt an Attorney, for a Contempt.

GEORGE, (&c.) Attach *E. F.* one of the Attornies of our Court of the Bench, ſo that you have him before our Juſtices at *Weſtminſter*, (*ſuch a Day*) to anſwer to us of and

and concerning those Things which on our Part shall at that Time be objected against him; And have, (*&c.*) Com. Pleas.

This may serve against any other, *Mutatis mutandis.*

A Declaration by an Attorney of the Common Pleas.

London, to wit, A. *B.* late of, (*&c.*) was attached by a Writ of the Lord the King of Privilege, issuing out of this Court, to answer *J. S.* Gent. one of the Attornies of the Court of the Lord the King of the Bench here, according to the Liberties and Privileges of the said Bench used and approved of in the same, from the Time whereof the Memory of Man is not to the contrary, of a Plea of Trespass upon the Case, *&c.* And whereupon the said *J.* in his proper Person complains, That **whereas**, (*&c.*) And therefore he brings his Suit, (*&c.*)

Pledges must be added to a Bill by an Attorney, or Clerk, or otherwise Cause of Demurrer.

Pledges of prosecuting, { *John Doe*, *Richard Roe.*

A Declaration by one of the Prothonotary's Clerks.

S. ff. A. *B.* late of *C.* in the County aforesaid, Yeoman, was attached by a Writ of the Lord the now King of Privilege

Com. Pleas. Privilege iſſuing out of this Court, to anſwer *E. F.* Gent. one of the Clerks of *George Cooke*, Eſq; Chief Prothonotary of the Lord the King of the Bench, [*according to the Liberties and Privileges of the ſaid Court for ſuch Clerks, and other Miniſters of the ſame Bench from the Time whereof the Memory of Man is not to the contrary, uſed and approved in the ſame.*] of a Plea of Treſpaſs upon the Caſe; And whereupon the ſaid *E. F.* in his proper Perſon complains, that **whereas**, (*&c.*)

Note; The Prothonotary ſtruck theſe Words out.

Pledges to proſecute, { *John Doe*, *Richard Roe.*

How to proceed againſt an Attorney.

The Method of proceeding againſt an Attorney is to draw a Bill in this Form:

Michaelmas Term 14 *Geo.* 2.

TO the Juſtices of the Lord the King of the Bench.

Middleſex, to wit, A. *B.* by *T. H.* his Attorney complains of *E. F.* Gent. one of the Attornies of the Court of the Lord the King of the Bench, (*otherwiſe called*, &c.) preſent here in Court in his proper Perſon, for that **whereas**, (*and ſo go on with your Declaration to the Words* wherefore he ſays that he is injured and damnified to the Value of —— *l.*) *and then ſay*, And therefore

therefore he prays Relief, *&c. inſtead of* And therefore he brings his Suit, *&c.)* Com. Pleas.

Pledges of proſecuting, { *John Doe* and *Richard Roe.*

Ingroſs this Bill on a double Penny ſtamped Parchment, and then give it to one of the Criers of the Court, and he will *call the Attorney by his Name*, ſaying, *that if he does not appear he will be forejudged.* Then you pay to the Prothonotary 1 *s.* for ſigning the Bill after it is called; and afterwards annex a Piece of Parchment ſtamped with a double ſix-penny Stamp to the Bottom of the Bill, and carry it to the Secondary, who will give a Rule thereon for the Defendant to appear; you pay him four Pence; and then file it with the Prothonotary; and if the Defendant does not appear according to ſuch Rule, then enter the Bill upon a Roll of the ſame Term, and carry it to the Clerk of the Warrants and Inrolments, and he will thereupon ſtrike ſuch Attorney out of the Roll. *See the Form of the Entry of a* Forejudger, *poſtea.*

There is a Rule made in Trin' *Term* 21 *Car.* 2. That no Bill ſhall be filed againſt any Officer, Attorney, Clerk or Miniſter of this Court, to be called in Court in order to a Forejudger, until the ſaid Bill be actually entered upon Record, and the Number of the Roll put upon the ſaid Bill. *But this is commonly neglected.*

Formerly Bills were filed againſt Attornies, Rules given, and ſo forejudged, without any Notice

Com. Pleas. Notice being given to them, upon a bare Suppoſition of their being always preſent in Court to anſwer all Complaints againſt them: But this Hardſhip is moſt juſtly remedied by the following Rule:

Where any Bill ſhall be filed againſt an Attorney of this Court, no Forejudger ſhall be entered againſt him for Want of Appearance, if the Action be laid in *London* or *Middleſex*, and ſuch Attorney reſides within twenty Miles of *London*, until four Days after Notice in Writing of filing ſuch Bill to be given to ſuch Attorney or his Agent, or left at his uſual Place of Abode, and a Rule given for Appearance as uſual; and if ſuch Attorney reſides above twenty Miles from *London*, or the Action be laid in any other County, then no Forejudger ſhall be entered 'till eight Days after ſuch Notice, and a Rule to appear, as aforeſaid; the ſaid Days to be excluſive of the Day of giving ſuch Notice. *Reg' Cur' Hill.* 11 *Geo.* 2.

Mr. *D. E.*

Notice of a Bill being filed.

Take Notice that a Bill is filed againſt you in Mr. Prothonotary *Cooke*'s Office in the *Temple*, *London*, as of this preſent —— Term, at the Suit of *P. Q.* in an Action of *Treſpaſs on the Caſe*, for Goods ſold and delivered, (Work done, *&c. as the Caſe is*,) And if you do not appear thereto within four (or eight Days, *as the Caſe requires, according to the laſt mentioned Rule*,) from the Date hereof, you will be forejudged by the Court. Dated this —— Day of——

Yours A. T. *Attorney for the Plaintiff.*

Com. Pleas.

A Declaration upon a Bill filed against an Attorney in Debt.

Cooke.

Michaelmas the 14*th of King* George *the Second.*

M. ſſ. BE it remembered, That on the twenty-third Day of *October* in this ſame Term, *A. B.* came here into Court by *T. H.* his Attorney, and exhibited to the Juſtices of the Lord the King here his certain Bill againſt *E. F.* Gent. one of the Attornies of the Court of the Lord the King of the Bench, preſent here in Court in his proper Perſon, the Tenor of which ſaid Bill follows in theſe Words: To the Juſtices of the Lord the King of the Bench, to wit, *M.* ſſ. *A. B.* by *T. H.* his Attorney complains of *E. F.* Gent. one of the Attornies of the Court of the Lord the King of the Bench, (otherwiſe called, *&c.*) preſent here in Court in his proper Perſon, for that whereas, (*as in others in Debt*, &c.) and hath Damage to the Value of twenty Pounds, and thereof he prays Relief, *&c.*

Note; *It is ſaid the* Memorandum *ought to be the firſt Day of the Term.*

The Bill filed to be ingroſſed on Parchment.

Pledges to proſecute, { *John Doe* and *Richard Roe.*

Note; The Declaration muſt be entered on the Roll, with a *Memorandum* of the firſt Day of the Term the Bill was filed, and with an Imparlance to the firſt Day of the next Term, if the Defendant pleads not the ſame Term the Bill was filed.

Com. Pleas.

The Form of the Entry of the Forejudger.

Write a Memorandum, and the Bill in like Manner as in the Declaration, to the Words Relief, *&c.* The Pledges to profecute are *John Doe* and *Richard Roe*; whereupon the ſaid *E. F.* being ſolemnly called came not; therefore he ſtands forejudged from exerciſing his Office of Attorney of this Court for his Contumacy, *&c.*

How to reſtore an Attorney.

When the Attorney that is forejudged, has ſatisfied the Plaintiff, or if he appears and will controvert the Suit in Order to be reſtored, he muſt ſummon the Plaintiff's Attorney or Agent before a Judge, to ſhew Cauſe why he ſhould not be reſtored, and if it appears to the Judge that the Plaintiff hath had Satisfaction, or the Matter in Diſpute ought to be controverted, he will make an Order to the Clerk of the Warrants and Inrolments to replace him in the Roll of Attornies, who does it without any Entry whatſoever. But if the Attorney be arreſted by any other Perſon, and he pleads his Privilege, and the Plaintiff replies that he is forejudged, and Iſſue be taken thereon, it is then proper that an Entry be made thereof; for his being forejudged is as much a Bar, and deprives him of his Privilege with Regard to others, as an Outlawry is a Bar for any other Perſon to take Advantage of, as well thoſe that are Strangers as thoſe that are Parties to the Outlawry.

Certiorari.

A Certiorari *for an Attorney of the Common Bench.*

GEORGE, (&c.) To the Mayor, Aldermen and Sheriffs of *London*, Greeting: **We command** you that you have before our Juſtices at *Weſtminſter* on *Monday next enſuing* (quære *if it ſhould not be* on *Monday* next after the *Octave* of St. *Hillary*, *or ſome other general Return*, *as upon Attachments of Privilege*) all and ſingular Cauſes, Plaints and Demands againſt *A. B.* Gent. one of the Attornies of our Common Bench, before you or any of you levied, ſued out, and depending, together with the Days of levying them, ſo that our ſame Juſtices, upon viewing thoſe Cauſes, may be able to do therein full and complete Juſtice to the ſaid *A. B.* according to the Liberties and Privileges for ſuch Attornies, Time out of Mind uſed and approved of; And have, (*&c.*) **Witneſs**, &c.

To remove a Plea into the Common Pleas.

George, (&c.) To the Mayor, Aldermen, Certiorari, and Sheriffs of *London*, Greeting: We being willing for certain Reaſons that there ſhould be certified as well of a certain Original Bill before you, or any of you, levied or affirmed,

Com. Pleas. againſt *T. R.* late of, (*&c*) at the Suit of *T. M.* of a Plea of Debt upon Demand for eight Pounds, as a certain Attachment thereupon made for eight Pounds, in the Hands and Cuſtody of *A. B.* being attached and deſended: **We command** you that you certify the original Bill aforeſaid, and the Attachment aforeſaid, fully and clearly, with all Things relating to the ſame before our Juſtices at *Weſtminſter in* 15 *Days from* Eaſter-Day, together with this Writ, in as full and ample a Manner as the ſame now remains in our Court before you, or any of you, by whatſoever Names the Parties may be diſtinguiſhed, (*or charged*) in the ſame, that our ſaid Juſtices may cauſe to be further done therein, that which of Right they ſhall ſee ought to be done. **Witneſs**, &c.

For an *Accedas ad Curiam, &c.* to remove Plaints out of inferior Courts, and for the Nature of them, ſee *Dalton*'s Office of a Sheriff, *Greenwood* of Courts.

All Writs of *Certiorari* iſſuing out of this Court, directed to the Court of Pleas of the Biſhop of *Ely*, ſhall be indorſed by a Judge of this Court, with the Words *Iſle of Ely*, and the Name of the ſaid Judge, before it ſhall be ſealed; and if any Writ of *Certiorari* ſhall iſſue without ſuch Indorſement, it ſhall not be allowed by the Judge of the Court of *Ely* aforeſaid. *Per Reg. Cur. Paſ.* 13 *W.* 3.

Habeas

Habeas Corpus.

Habeas Corpus cum Cauſa ad Fac. & Rec'.

GEORGE, (&c.) To the Mayor, (&c.) Greeting: We command you, and every of you, that you have before our Juſtices at *Weſtminſter*——(*the Return, a Day certain*) the Body of *A. B.* who is ſaid to be detained in our Priſon under your Cuſtody by whatſoever Name he may be charged in the ſame, together with the Day and Cauſe of the taking and detaining of the ſame *A. B.* to do and receive whatſoever our Court ſhall conſider of him, in this Behalf; And have you there this Writ. Witneſs, (&c.)

Habeas Corpus *to the Marſhal's Court, returnable immediately.*

George, (&c.) To the Judges of the Court of our Palace at *Weſtminſter*, and to every of them, Greeting: We command you, that you have the Body of *A. B.* detained in our Priſon under your Cuſtody, as it is ſaid, by whatſoever Name he may be charged therein, together with the Day and Cauſe of his being taken and detained before Sir *John Willes*, Knt. our Chief Juſtice, (or before *Alexander Denton*, Eſq; one of our Juſtices, *when it is returnable before another Judge*) of

Com. Pleas. the Bench, at his Chambers ſituate in *Serjeants-Inn* in *Chancery-lane*, immediately after the Receipt of this Writ, to do and receive whatſoever our ſame Juſtice ſhall then and there conſider of him in this Behalf; And have you there this Writ. **Witneſs**, (&c.)

Stamp now 5 *s.* to the Prothonotary to ſign it 1 *s.* 4 *d.* to the Judge 4 *s.* Sealing 7 *d.* Allowance at the Marſhal's Court 4 *s.* 8 *d.* and for the ſecond Cauſe 1 *s.* *&c.* Any Judge of the Common Pleas may ſign it, and take the Bail, and Defendant need not attend with the Bail; Stamp for the Bail-Piece 2 *s.* Judge's Clerk's Fee upon Bail 7 *s.* 6 *d.* The Marſhal's Court take 2 or 3 Days to make their Return.

You leave the *Habeas Corpus* at the Marſhal's Court Office in *Clifford's Inn*, and after they have returned it, you carry it with the Defendant and Bail to the Judge, *coram quo*, *&c.* or any other Judge.

Note; Any Action above 5 *l.* removes the Cauſe. See the *King's Bench.*

Note; If the Defendant be minded to go to the *Fleet*, then there needs no Bail; but if the Defendant be not actually in Priſon, then he muſt get the Officer to return a *Cepi*, or elſe to get the Officer to come over to take him into his Cuſtody, and make Certificate; or elſe actually to carry the Perſons to the Priſon.

Habeas

Habeas Corpus *upon a* Cepi Corpus *returned, in Debt.*

George, (&c.) Greeting: **We command** you, that you have before our Juſtices at *Weſtminſter*, (*ſuch a Return*) the Body of *A. B.* whom you have taken by our Precept and detain in your Cuſtody, ſo as you yourſelf have returned to our Juſtices at *Weſtminſter* (*ſuch a Day*) laſt paſt, to anſwer *E. D.* of a Plea, that he render to him 20 *l.* which he owes to him, and unjuſtly detains, as it is ſaid; And have you there this Writ. **Witneſs**, (&c.)

The like in other Actions according to the Form of the *Capias*.

Note, That upon Bail taken of a Perſon in Cuſtody, the Priſoner is not to be diſcharged 'till the Bail be aſſented to, or over-ruled in open Court: The Defendant being bailed upon a *Habeas Corpus*, the Plaintiff muſt bring his new Original within two Terms following; (that Term wherein the Bail was taken, to be accounted for one, unleſs it was taken the laſt Day of the Term,) and declare againſt him as the Nature of his Cauſe, or Action ſhall require, obſerving the ſame Method of getting Judgment and Execution, by way of *Nil Dicit*, *Non ſum Informatus*, *Confeſſion*, or Trial by *Niſi Prius*, as in other Caſes.

See more after in *Scire Facias*, of proceeding againſt the Bail.

Com. Pleas. *Note*; If a Man be taken upon a King's Bench Proceſs, and removes himſelf to the *Fleet*, you may charge him with a Declaration in this Court; for the Method thereof ſee hereafter for the Rules made by this Court for delivering Declarations againſt Priſoners, and the Proceedings thereon.

Procedendo.

A Procedendo *in the Marſhal's Court.*

GEORGE, (&c.) To the Judges of the Court of our Palace at *Weſtminſter*, and to every of them, Greeting: Whereas by our Writ we lately commanded you, that you ſhould have before Sir *John Willes*, Knt. our Chief Juſtice of the Bench, at his Chambers ſituate in *Serjeants Inn* in *Chancery-Lane*, *London*, immediately after the Receipt of the aforeſaid Writ, the Body of *A. B.* detained in our Priſon under your Cuſtody, as it is ſaid, together with the Day and Cauſe of the taking and detaining of him by whatſoever Name the ſame *A.* ſhould be charged in the ſame, to do, and receive what our aforeſaid Chief Juſtice ſhould conſider of him in this Behalf: Nevertheleſs, for certain Cauſes, (*Reaſons*) our Juſtices of the Bench aforeſaid at *Weſtminſter* in this Behalf ſpecially moving, We command you, and every of you, that you proceed with Effect according to the Law and Cuſtom of our Kingdom of *Great Britain*, and the Court aforeſaid, in whatſoever Pleas and Plaints are levied

If before another Judge ſay, Before Alexander Denton, *Eſq; one of our Juſtices of the Bench*, &c.

vied or depending in our Court againſt the ſaid *A. B.* notwithſtanding any Writ lately directed to you to the contrary. **Witneſs**, Sir *J. W.* Knt. at *Weſtminſter*, (*&c.*) Com. Pleas.

Another.

As above to——Shall conſider of him in this Behalf: **Nevertheleſs** becauſe it ſufficiently appears to our Juſtices of the Bench aforeſaid at *Weſtminſter*, that the ſaid *A.* hath not in due Manner proſecuted his ſaid Writ for having his Body, together with the Day and Cauſe of the taking and detaining him before our aforeſaid Juſtices at the Day and Place aforeſaid, according to the Tenor of the ſame Writ; **Therefore** we command you, that you and every of you proceed with Effect in all and ſingular Pleas or Plaints in our Court before you, or any of you moved (*levied*) or depending, according to the Law and Cuſtom of our Kingdom of *Great Britain*, and the Court aforeſaid, as far as ſhall be juſt; our Writ of *Habeas Corpus* to you thereof lately directed in any Wiſe notwithſtanding. **Witneſs**, (&c.)

Another upon a Habeas Corpus, *returnable in Court.*

George, (&c.) **Whereas** we lately commanded you by our Writ, that you ſhould have before our Juſtices at *Weſtminſter*, on *Wedneſday* next after fifteen Days of St. *Martin*, the Body of *A. B.* detained in our Priſon *Procedendo.*

Com. Pleas. Priſon under your Cuſtody, as it was ſaid, by whatſoever Name he ſhould be charged, together with the Day and Cauſe of the taking and detaining the ſame *A.* to do and receive whatſoever our ſame Juſtices ſhould conſider of him in this Behalf; **Yet** for certain Cauſes our Juſtices at *Weſtminſter* in this Behalf moving, **We command** you, that you proceed with Effect in all and ſingular Pleas and Plaints in our Court before you, againſt the aforeſaid *A. B.* moved or depending; the aforeſaid Writ of *Habeas Corpus* of the aforeſaid *A.* to you lately directed to the contrary thereof in any wiſe notwithſtanding. **Witneſs,** (&c.)

Scire Facias.

A general Scire Facias, *after a Year and a Day.*

Poſt annum & diem. **George,** (&c.) **To** the Sheriff of *L.* Greeting: **Whereas** *A. B.* lately in our Court, to wit, in the Term of —— in the —— Year of our Reign, before Sir *John Willes,* Knt. and his Brethren, then our Juſtices of the Bench at *Weſtminſter,* by the Conſideration of the ſame Court, recovered againſt *C. D.* late of *E.* in your County, Gent. otherwiſe called *C. D.* of *E.* in the County of *L.* Gent. as well a certain Debt of eighty Pounds, as ſixty Shillings, which were adjudged to the ſame *A.* in our ſaid Court, for his Damages which he had ſuſtained by Occaſion of the detaining

detaining of that Debt whereof he is convicted, as by the Record and Proceedings therein remaining in our ſame Court before our Juſtices at *Weſtminſter* manifeſtly appears: **Nevertheleſs** Execution of the Judgment aforeſaid yet remains to be done, as we have received Information from the ſaid *A. B.* and becauſe we are willing that thoſe Things which are juſt and right ſhould have a due Execution in our ſame Court, **We command** you, that by honeſt and lawful Men of your Bailiwick, you cauſe the aforeſaid *C. D.* to know that he be before our Juſtices at *Weſtminſter* On the Octave of the Holy *Trinity*, to ſhew if he has or knows any Cauſe why the aforeſaid *A. B.* ought not to have Execution againſt him for the Debt and Damages aforeſaid, according to the Form of the Recovery aforeſaid, if it ſhall ſeem expedient to him; And have there the Names of them by whom you ſhall ſo cauſe him to know, and this Writ. **Witneſs** Sir *John Willes*, Knt. at *Weſtminſter*, the —— Day of —— in the —— Year of our Reign. Com. Pleas.

Note; One *Scire Facias* and *Nihil* returned is ſufficient in this Court to ground a Judgment and Execution, if it be againſt the Party himſelf.

After

After the Sheriff has returned the Scire Feci, *then you muſt prepare an Entry of the Judgment after this Manner:*

This Scire Facias *ought to be entered on the Prothonotary's Remembrance, and Rule given thereon in the Margin, before the Judgment ſigned; or at leaſt Rules given with the Secondary.*

L. to wit, THE Sheriff hath been commanded, that **whereas** *A. B.* lately in the Court of the Lord the now King, to wit, in the Term of —— in the —— Year of the Reign of the ſaid Lord the King, before Sir *John Willes*, Knt. and his Brethren, then Juſtices of the ſaid Lord the King of the Bench here, to wit, at *Weſtminſter*, by the Conſideration of the ſame Court recovered againſt *C. D.* late of *E.* in the County of *Lincoln*, Gent. otherwiſe called *C. D.* of *E.* in the County of *L.* Gent. as well a certain Debt of eighty Pounds, as alſo ſixty Shillings, which were adjudged to the ſame *A.* in our ſame Court for his Damages which he hath ſuſtained by Occaſion of detaining that Debt, whereof he is convicted, as by the Record and Proceedings therein, remaining in the ſame Court of the ſaid Lord the now King here, to wit, at *Weſtminſter* aforeſaid, manifeſtly appears: **Nevertheleſs** Execution of the Judgment aforeſaid as yet remains to be done, as we have received Information from the ſaid *A.* And becauſe, (*&c.*) by honeſt, (*&c.*) you cauſe the aforeſaid *C.* to know that he be here at this Day, to wit, On the *Octave* of the Holy *Trinity*, to ſhew if he has, (*&c.*) why the aforeſaid *A.* ought not to have Execution againſt him for the Debt and Damages aforeſaid, according to the Form of the Recovery aforeſaid, if, (*&c.*) And now here at

at this Day the aforeſaid *A.* comes by *D. R.* his Attorney, and preſented himſelf the fourth Day againſt the aforeſaid *C.* of the aforeſaid Plea. And he being ſolemnly required does not come; and the now Sheriff returned, that he hath nothing, *&c.* nor is to be found, *&c.* **Therefore** it is conſidered, that the aforeſaid *A.* have Execution againſt the aforeſaid *C.* of the Debt and Damages aforeſaid by Default, *&c.* Com. Pleas.

See before, for a Fieri Facias *after* Nihil *returned on* Scire Facias, *and Judgment.*

Of Scire Facias *againſt Bail.*

Here it is to be obſerved, that when the Plaintiff hath obtained Judgment againſt the Defendant, where ſpecial Bail hath been given, the Plaintiff may either take the Defendant upon Execution, or proſecute his Bail. —— The Manner of the proſecuting the Bail is thus:

Firſt, The Judgment being entered, he muſt ſue forth a *Capias ad Satisfaciendum* againſt the Defendant, directed to the Sheriff of the ſame County where the Action was firſt laid; and upon the Return thereof get the ſame returned, *He is not to be found.* Then he muſt procure a Writ of *Scire facias* againſt the Bail, (the Form whereof hereafter followeth.) *To ſhew Cauſe why the Plaintiff ſhould not have Execution againſt them, according to the Recovery or Judgment ſo had againſt the Defen-*

Hob. 196. *The* Scire Facias *muſt iſſue to the Sheriff of the County where the* Caption *was.*

Com. Pleas. *Defendant.* Upon which Writ, if the Sheriff do return *Scire Fec'*, you need not make out any ſecond Writ; but if he return *Nihil Habent*, then you muſt make out a ſecond Writ of *Scire facias*, and get it returned. If it be returned alſo *Nihil*, (yet two *Nihils* amount to a *Scire Feci*,) then you muſt give Rules upon them in the Prothonotary's Office, and file them with the *Cuſtos Brevium.* And thereupon if the Bail ſhew not Cauſe to the contrary, then Judgment by Default may be entered againſt them in the ſame Prothononary's Office, for the Sum in which they became Bail, and the Plaintiff may thereupon take out Execution againſt them, either by *Fieri Facias*, or *Elegit*, but not by *Capias ad Satisfaciendum*, becauſe it is againſt the Tenor of the Bail.

Otherwiſe:

There is alſo another Way of proceeding againſt the Bail, and that is by Original at the Common Law, for the Sum for which they become Bail, and thereupon arreſt their Bodies, either upon the *Capias*, *Alias* and *Pluries*, or ſue them to Exigent thereupon, and declare upon the ſaid Recognizance, uſing all Proceedings thereupon, as in an Action of Debt. And the Action ought to be laid in the County of *Middleſex* where the Records do lie, and whence the *Venire* for that Reſpect muſt ariſe.

And Note, That if the Bail cannot be arreſted in *Middleſex* upon a *Capias*, *&c.* you may return *Non eſt inventus*, and thereupon ſue

ſue forth a Writ of *Teſtatum*, and thereby arreſt them in another County where they may be found, obſerving the like Proceedings as in an Action of Debt. Com. Pleas.

Scire Facias *upon a Recognizance againſt Bail.*

GEORGE, (&c.) To the Sheriff of *Middleſex* Greeting: Whereas *A. B.* late of, (*&c.*) lately in our Court, to wit, the —— Day of —— in the —— Year of our Reign, undertook for *E. F.* in fifty Pounds, that the ſame *E.* ſhould appear in our ſame Court before our Juſtices at *Weſtminſter*, (*here put the Return*) then next following, and ſo from Day to Day, to every Day, in a Plea of Debt upon Demand for fifty Pounds, proſecuted by one *G. H.* againſt the aforeſaid *E.* in our ſame Court, until that Plea ſhall be ended and Judgment therein given: And if it ſhould happen the aforeſaid *E.* be convicted in the aforeſaid Plea, and Judgment be given for the aforeſaid *G.* againſt the ſame *E.* the aforeſaid *E.* ſhould ſatisfy the aforeſaid *G.* for the Debt and Damages of the ſame *G.* in the aforeſaid Plea againſt the aforeſaid *E.* to be recovered and adjudged; or that he the ſame *E.* ſhould render himſelf to the Priſon of the *Fleet* on that Occaſion; which ſaid Sum of fifty Pounds the aforeſaid *A.* hath acknowledged to be made of his Lands and Tenements, and to be levied to the Uſe and Behoof of the aforeſaid *G.* if it ſhall happen the aforeſaid *E.* do make Default in any of

Com. Pleas. the Premiſſes, and in a lawful Manner to be therein convicted, as by the Record and Proceedings thereon remaining in our ſame Court manifeſtly appears: And although the aforeſaid *G.* afterwards, to wit, in the Term of —— in the —— Year of our Reign, in our ſame Court hath recovered againſt the aforeſeid *E.* the aforeſaid fifty Pounds of the Debt aforeſaid, and alſo ſixty Shillings for his Damages ſuſtained by Occaſion of detaining that Debt, as by the Record and Proceedings thereon likewiſe remaining in our ſame Court before our Juſtices at *Weſtminſter* aforeſaid manifeſtly appears; Yet the aforeſaid *E.* hath not rendered his Body in Execution of the Judgment aforeſaid in our ſame Court before our Juſtices aforeſaid, nor hath the ſame *E.* ſatisfied the aforeſaid *G.* for the Debt and Damages aforeſaid, as we have received Information from the ſaid *G.* And becauſe we are willing that thoſe Things, which in our aforeſaid Court are rightly done and acknowledged, ſhould be brought to a due Execution, We command you, that by honeſt and lawful Men of your Bailiwick you cauſe the aforeſaid *A.* to know that he be before our Juſtices at *Weſtminſter* in three Weeks from the Day of St. *Michael*, to ſhew if he hath or knows any Thing for himſelf to ſay, why the aforeſaid fifty Pounds Debt, and ſixty Shillings of Coſts, by him in Form aforeſaid acknowledged, ought not to be made of his Goods and Chattels, and rendered to the aforeſaid *G.* according to the Form of the Recognizance aforeſaid, if it ſhall ſeem expedient to him; And have there the Names of them by whom you ſhall

ſhall cauſe him to know, and this Writ. Com. Pleas.
Witneſs, (&c)

Note; This firſt *Scire facias* is to be made out by the Filacer of the County, and if there be Occaſion for the ſecond, then the Attorney makes that out: *Teſte* on the Appearance of the firſt, *&c.* And there ought to be fifteen Days between the *Teſte* and *Return*.

Where the Bail is upon a Habeas Corpus, *the Attorney makes the* Scire Facias *out himſelf.*

But ſee 1 *Lut.* 26. as to a Plea in Abatement, that there were only fourteen Days between the *Teſte* and *Return* of a *Scire Facias*.

" It was anſwered and reſolved, That it " was good by the Statute of 17 *Car.* 1. *cap.* 6. *par.* 8. and a *Reſpondeas Ouſter* was awarded.

Scire Facias *upon a Judgment againſt an Executor, after a Year and a Day.*

GEORGE, (&c.) To the Sheriff of *Derby* Greeting: Whereas *A. B.* lately in our Court, to wit, in the Term of —— in the —— Year of our Reign, before Sir *John Willes*, Knt. and his Brethen, our Juſtices of the Bench at *Weſtminſter*, (*&c.*) had recovered againſt *E. F.* late of, (*&c.*) Executor of the Teſtament of *S. T.* as well a certain Debt of twenty Pounds, to be levied of the Goods and Chattels which were the aforeſaid *S.*'s at the Time of his Death, being in the Hands of the aforeſaid *E.* as alſo 40 *l.* 10 *s.* which

Com. Pleas. were adjudged in our ſame Court to the ſaid *A.* for his Damages ſuſtained by Reaſon of the detaining that Debt, to be levied of the ſame Goods and Chattels, if the aforeſaid *E.* had ſo many Goods and Chattels, which were the aforeſaid *S.*'s at the Time of his Death, in his Hands to be adminiſtred: And if he had not, then the Damages aforeſaid to be levied of the proper Goods and Chattels of the ſaid *C.* whereof he is convicted, *&c.* (*as in the laſt before unto* manifeſtly appear;) Yet Execution of the Judgment aforeſaid yet remains to be done, as we have received Information from the ſaid *A.* And becauſe we are willing, (*&c. as before,*) that by honeſt, (*&c.*) to ſhew, (*&c.*) why the aforeſaid *A.* ought not to have Execution againſt him for the Debt and Damages aforeſaid, if it ſhall appear fitting to him; And have there the Names, (*&c.*) and this Writ. Witneſs, (&c)

Scire Facias *againſt Ter-tenants, upon a Judgment recovered againſt the Heir in Debt.*

George, (&c.) To the Sheriff of *Derby* Greeting: Whereas *J. K.* Knt. lately in our Court, to wit, in —— Term in the —— Year of our Reign, before Sir *John Willes*, Knt. and his Brethren, *&c.* (*as before,*) had recovered againſt *A. W.* late of *L.* in the County of *Norfolk*, Gent. Brother and Heir of *S. W.* Eſq; lately called, (*&c.*) as well a certain Debt of five hundred Pounds, as ſix Pounds, which to the ſame (*&c.*) whereof he

is convicted; **Yet** Execution of the Judgment aforeſaid, as to the Debt aforeſaid, yet remains to be done, and the aforeſaid *A.* is dead, as we have received Information from the aforeſaid *J.* and becauſe we are willing, *&c. (as before)* cauſe the Tenants of the Lands and Tenements of which the aforeſaid *S.* died ſeiſed in Fee-ſimple, and which deſcended to the aforeſaid *A.* by Hereditary Deſcent, as Brother and Heir of the aforeſaid *S.* to know that they are to be before *&c. (as before)* On the Morrow of the Holy *Trinity*, to ſhew if any Thing, *&c. (as before)* why the aforeſaid *L.* ought not to have Execution againſt them for the Debt and Damages aforeſaid to be levied of thoſe Lands and Tenements, according to the Form of the Recovery aforeſaid, if it ſhall ſeem expedient to him; * And have you there the Names, (*&c.*) and this Writ. **Witneſs**, (&c.)

Com. Pleas.

* *If it be* Teſtatum Scire Facias, *then add* And whereupon.

And whereupon our Sheriffs of *London* have returned to your Juſtices at *Weſtminſter* in three Weeks from the Day of St. *Michael* laſt paſt, that there are not any Tenants or Tenant of any of the Lands and Tenements of which the aforeſaid *S.* died ſeiſed in Fee-ſimple, and which deſcended to the aforeſaid *A.* by Hereditary Deſcent, as Brother and Heir of the aforeſaid *S.* in their Bailiwick, to whom they could make to know; **whereupon** it is teſtified in our ſaid Court, that there are divers Tenants of Lands and Tenements of which the aforeſaid *S.* died ſeiſed in Fee-ſimple, and which deſcended to the ſaid *A.* by Hereditary Deſcent, as Brother and Heir

Teſtatum Sci' Fac'.

Com. Pleas. of the aforeſaid *S.* in your County, to whom you may make to know; And have you there the Names, *&c.* and this Writ. **Witneſs,** (&c.)

Superſedeas *for an Attorney of the Common Bench, impleaded in the King's Bench.*

George, (&c.) **To** our Juſtices aſſigned to hold Pleas before us, **It** is ſhewn to us on the Behalf of *A. B.* Gent. one of the Attornies of the Court of the Bench, that **whereas** he is a common Attorney in the Bench aforeſaid, and diverſe Buſineſſes and Suits of many of our Liege Subjects in the ſame Bench as their Attorney proſecutes and defends, and the ſame *A.* and all other Attornies in the Bench aforeſaid, whilſt they are ſo proſecuting and defending ſuch Buſineſs in the Bench aforeſaid, ought to be and were under our Protection, according to the Liberties and Privileges of our Court of the Bench aforeſaid, from the Time whereof the Memory of Man is not to the contrary, uſed and approved of; * *Ignoſcens.* **Yet becauſe** *R. T.* Knt. * not knowing the Liberties and Privileges of our Court of the Bench aforeſaid, hath ſued and proſecuted in our Court before us a certain Bill, for a certain Treſpaſs committed by the aforeſaid *A.* to the aforeſaid *R.* as is aſſerted, in our County of *W.* in Contempt of our Court of the Bench, and to the great Damage and Oppreſſion of the ſaid *A.* and ſeveral of our Liege Subjects, whoſe Attorney he is, as we are informed; **And therefore** we command you, that you totally

totally ceaſe from proceeding in whatſoever Pleas and Plaints are depending or to be depending in our Court before you againſt the aforeſaid *A.* (Pleas of Freehold, Felony and Appeals only excepted,) informing the Parties in the Pleas and Plaints aforeſaid on our Behalf, that they may proſecute their Pleas and Plaints in our Court before our Juſtices of the Bench aforeſaid, if they ſhall ſee it expedient for them. **Witneſs**, (&c.) Com. Pleas.

Superſedeas (quia improvide) ſur Habeas Corpus.

George, &c. **To** the Sheriff of *S.* Greeting: **Whereas** we lately commanded you by our Writ, that you ſhould have *A. B.* being in our Priſon under your Cuſtody, together with the Day and Cauſe of the taking and detaining the ſame *A.* before our Juſtices at *Weſtminſter*, On the *Octave* of the Holy *Trinity* next enſuing, to do and receive what our Court ſhould conſider of in that Behalf; **Yet** becauſe it ſufficiently appears to our Juſtices aforeſaid at *Weſtminſter* aforeſaid, that the aforeſaid Writ of *Habeas Corpus* hath (*irregularly*) careleſly iſſued; Therefore we command you, that you wholly ceaſe from moleſting the aforeſaid *A.* by Reaſon of the Premiſſes, or from returning the aforeſaid Writ before our Juſtices at *Weſtminſter*, or from executing the ſaid Writ in any Manner. **Witneſs**, (&c.)

Quia breve erronice emanavit.

—— Whereas by our Writ we have lately commanded you, that you ſhould take, (*&c.*) whereof he is convicted; Yet becauſe it plainly appears to our Juſtices aforeſaid, that our Writ of *Capias* hath iſſued out of our Court not rightly and erroneouſly, therefore we command you, that you totally ceaſe from taking or any way moleſting him by Reaſon of the Premiſſes, (*&c.*) And if you ſhall have taken him the ſaid *A.* on that Occaſion, and not on any other, then you ſhall permit him to go at large. Witneſs Sir *J. W.* Knt. at *Weſtminſter*, the —— Day of —— in the —— Year of our Reign.

An Admiſſion of an Infant to ſue by his next Friend.

London, ſſ. IT is granted by the Court here, that *A. B.* Gent. and *C. D.* Gent. do jointly and ſeverally proſecute for *E. F.* who is under Age, as the next Friends of the ſaid *E.* againſt *G. H.* of a Plea of Debt.

This Admiſſion may be to one Friend, and ought to be entered on the ſame Roll before the Declaration.

The

The Declaration runs thus:

L. ſſ. *G. H.* late of, (*&c.*) to anſwer unto *E. F.* of a Plea, (*&c.*) And whereupon the ſaid *E. F.* by *A. B.* Gent. (who is admitted by the Court of the King here to proſecute for the ſame *E. F.* who is under Age, (as the next Friend of the ſame *E. F.*) ſaith, That **whereas**, (&c.)

Appearance. Infant.

As an Infant ſues by his next Friend, ſo he muſt appear by his Guardian, or Keeper; and if ſuch Guardian cannot be admitted in Court, or before a Judge at the Aſſize, then you muſt beſpeak a *Dedimus Poteſtatem* of the Curſitor of the County, for Commiſſioners to admit him *Cuſtodes*, to anſwer the Plaintiff *of a Plea*, &c. (*as in the Declaration*): The like if he pleads by his next Friend, and he be not otherwiſe admitted.

The Caption to be written on Parchment thus:

By Virtue of a Writ of the Lord the King to this Schedule annexed, directed to us and one *W. S.* Knt. *T. W. R. W.* (*&c.*) We whoſe Names are ſubſcribed, on the —— Day of —— in the —— Year of the Reign of the ſaid Lord the King, have admitted *R. S.* and *T. U.* Gent. Guardians of *J. K.* in the Writ aforeſaid named, being under Age, to proſecute and defend the Plaint which is before the Juſtices of the ſaid Lord the King of the Bench, by the Writ of the ſaid Lord the King, between the aforeſaid

Com. Pleas. *J. K.* and *L. M.* of a Plea of Treſpaſs, (*or* Debt, *&c.*) as it is ſaid, according to the Tenor of the ſame Writ. In Teſtimony of which Matter we have put our Seals the Day and Year aboveſaid.

L. M.
N. O.

The *Dedimus* muſt be returned thus on the Backſide, *The Execution of this Commiſſion appears in a certain Schedule to this Writ annexed.*

L. M.
N. O.

Theſe being returned back to you, they muſt be carried to the Curſitor, to make a *Mittimus* and Tranſcript, which muſt next be entred on a Roll after this Manner:

Entry of a Mittimus *and* Tranſcript *of Admiſſion of a Guardian.*

The Lord the King hath given in Charge to his Juſtices of the Bench here his Writ of *Mittimus* cloſed, together with the Tenor of a certain Writ of *Dedimus Poteſtatem*, to admit a Guardian, and the Return of the ſame: And alſo the Admiſſion of the ſaid Guardian thereon is in theſe Words, **George** the Second, by the Grace of God, of *Great Britain*, *France* and *Ireland* King, Defender of the Faith, *&c.* (*to the End of the* Mittimus *and* Tranſcript; *to wit, to the End of the Caption,* L. M. N. O.)

But

But now inſtead of beſpeaking a *Dedimus poteſtatem*, as before-mentioned, you may proceed by Petition, *&c.* as follows: Com. Pleas.

A Petition for an Infant to ſue by Prochein Amy.

In the Common Pleas.

To the Right Honourable Sir John Willes, *Knt. Lord Chief Juſtice of his Majeſty's Court of Common Bench.*

The Humble Petition of *A. B.*

Sheweth,

That your Petitioner having lately brought an Action in the ſaid Court of Common Pleas againſt one *C. D.* late of——in the County of ——in a Plea of *Treſpaſs on the Caſe*; and your Petitioner being an Infant under the Age of 21 Years, to wit, of the Age of——and upwards.

Your Petitioner *therefore humbly prays your Lordſhip to admit your Petitioner to proſecute the ſaid Action by* E. K. *of —— your Petitioner's next Friend.*

And your Petitioner ſhall ever pray, &c.

A. B.

The

The Prochein Amy's Agreement.

I am desirous and do hereby agree that *A. B.* of——in the Petition above-mentioned may be admitted to prosecute the abovesaid Action by me as his next Friend, according to the above Petition. And I do hereby agree to pay all Costs that shall or may happen for or on Account thereof. As Witness my Hand this——Day of——1740.

E. F.

Affidavit to support the Petition.

In the Common Pleas.

O. P. of——maketh Oath that on the—Day of——*A. B.* of——did subscribe his Name to the Petition hereto annexed in this Deponent's Presence: And on the same Day *E. F.* did also subscribe his Name to the Consent and Agreement written below the Petition hereto annexed in this Deponent's Presence.

Sworn, &c. *O. P.*

Upon which the Judge's Clerk will make an Admission, and the Judge will sign it.

The like Method may be observed (*mutatis mutandis*) to admit an Infant to defend by Guardian.

A Plea

A Plea by a Guardian.

And the aforesaid *J. K.* by *L. M.* (who is admitted by the Court of the King here, to defend for the same *J.* who is under Age, as Guardian (or Keeper) of the said *J.* comes and defends the Force and Injury when, *&c.* And saith, *&c.* (*as in others.*)

Proceedings against Prisoners.

Of delivering Declarations to Prisoners.

Rules *to be observed in the Court of* Common Pleas, *in the Proceedings upon Declarations delivered to Prisoners in Custody in County Gaols.*

First, THAT no Copy of any Declaration shall be delivered to a Prisoner in Custody, until after the Process upon which such Prisoner shall be taken, or charged in Custody be returnable. *No Declaration to be delivered to a Prisoner, before the Return of the Process.*

Secondly, That no Rule shall be given for the Defendant in Custody to appear and plead to any Declaration against him, until an Affidavit be filed with the proper Secondary, of the Delivery of a Copy of such Declaration, and *No Rule is given for Appearance, till Affidavit of the Delivery of the Declaration is filed.*

Com. Pleas. and of the Time when, and the Perſon to whom the ſame was delivered: And the Copy of the ſaid Affidavit ſhall be produced to the Prothonotary before Judgment ſigned, together with a Certificate from the proper Officer, that no Appearance is entered with him.

Declarations delivered before one Month of Eaſter, *or in the Morrow of* All Souls.

Thirdly, If a Copy of the Declaration be delivered before one Month of *Eaſter*, or in the Morrow of *All-Souls*, and Affidavit thereof made and filed, and the Defendant doth not enter his Appearance with the proper Officer within ten Days after *Eaſter* or *Michaelmas* Term reſpectively, Judgment may be entred againſt him upon the Certificate as aforeſaid, if Rules have been given; but if he doth not enter his Appearance as aforeſaid before the End of ten Days after the Term, he ſhall imparl until the next Term, unleſs the Action be in *London* or *Middleſex*, and the Defendant be in Priſon within forty Miles of the City of *London* or *Weſtminſter:* Then, though he doth not appear before the Expiration of ten Days after the End of the Term, he ſhall plead two Days before the Eſſoin-Day of the next Term; and in Default thereof, Rules having been given, Judgment may be entred againſt him as aforeſaid.

Declarations delivered after one Month of Eaſter, *or the Morrow of* All Souls, *or in* Hillary *or* Trinity *Term*

Fourthly, If a Copy of the Declaration be delivered on or after one Month of *Eaſter* in *Eaſter* Term, or the Morrow of *All Souls* in *Michaelmas* Term, or in *Hillary* or *Trinity* Term, and the Plaintiff thereupon ſhall give Rules to appear and plead, if the Defendant enter his Appearance two Days preceding the Eſſoin-Day of the next Term, he ſhall imparl until the

the ſaid next Term: But if he does not appear within that Time, Judgment may be entred againſt him as aforeſaid. Com. Pleas.

Fifthly, If the Writ be returnable in one Term, and a Copy of the Declaration be delivered before the Eſſoin-Day of the next Term, the Plaintiff in ſuch next Term, may give Rules to appear, and plead; and if the Defendant doth not enter his Appearance, and plead by that Time that the Rules are out, Judgment may be entred againſt him as aforeſaid. *Declaration delivered before the Eſſoin-Day of the next Term.*

Sixthly, If the Declaration be not entred, or left in the Office, before the End of the next Term, after the Writ or Proceſs (by which the Priſoner ſhall be taken or charged in Cuſtody) be returnable; and an Affidavit made and filed in Manner aforeſaid, before the End of twenty Days after ſuch Term, (*Eaſter* Term excepted;) and within ten Days after *Eaſter* Term, the Priſoner ſhall be diſcharged upon the entring of his Appearance with the proper Officer, by Writ of *Superſedeas* made by him according to the ancient Practice of this Court. *If Declaration be not entred in the Office,* *Priſoner diſcharged.*

Seventhly, If any Gaoler, or Keeper of a Priſon having received a Copy of a Declaration againſt any Priſoner in his Cuſtody, ſhall ſuppreſs the ſame, and not deliver it forthwith to ſuch Priſoner, an Attachment ſhall be iſſued againſt him. *Attachment againſt Gaoler if he ſhall ſuppreſs the Declaration.*

George Trely, *Edward Nevil*, | | *John Powell*, *Thomas Rokeby*.

Com. Pleas. * *If on Bond you pay* 1 s. *In Caſe on three Narr's* 4 s.

Before you deliver the Declaration againſt the Priſoner, you muſt * enter it with one of the Prothonotaries, otherwiſe your Proceedings will be irregular.

If the Defendant be a Priſoner in the *Fleet*, you enter your Declaration before you deliver it with the Clerk of the Papers of the *Fleet* Priſon; and you are not obliged to take out Proceſs to charge him in Cuſtody there, before you can regularly declare againſt him, as you muſt do, if the Defendant is a Priſoner in *Ludgate*, *Newgate*, or any County Gaol.

The Affidavit of Service muſt be after this Manner.

R. G. maketh Oath, That he did on the thirteenth Day of *June* laſt deliver a true Copy of the Declaration hereunto annexed * unto the Defendant *E. F.* the ſaid *E. F.* being then a Priſoner in the Priſon of *Newgate*: And this Deponent ſaith, That the ſaid Defendant was arreſted, or charged in Cuſtody, at the Suit of the Plaintiff by Proceſs of this Court, returnable before the Delivery of the ſaid Declaration.

* Or, *To the Gaoler or the Turnkey of the Gaol Priſon of the County of —— And the ſaid Turnkey or Gaoler then owned him the ſaid* E. F. *to be a Priſoner in the ſaid Priſon, and that he would deliver the Declaration to him.*

Sworn the —— Day of —— in the —— Year of King *George* the Second, before ——

This Affidavit, and the Declaration thereto affixed, you carry to the Secondary for a Rule to plead, for which you pay him One Shilling and

and Eight Pence, and he will keep your Declaration and the Affidavit annexed. Com. Pleas.

If the Priſoner does not plead before the Rule is out, a Plea being demanded, you may take your Judgment; and if it is Action on the Caſe, proceed to execute your Writ of Inquiry, ſign your final Judgment, and make out ſuch Writ of Execution as ſhall be requiſite. But if you charge the Priſoner in Execution, you are barred from ſuing forth any Writ of Execution againſt his Lands or Goods, unleſs the Priſoner eſcape, be diſcharged by * Privilege of Parliament, or Death; and then the Plaintiff, his Executors, *&c.* may ſue forth new Execution againſt the Lands, Goods, *&c.* as if the Perſon deceaſed, *&c.* had never been taken in Execution. * 1 Jac. c. 1. 21 Jac. c. 24.

See before amongſt the Executions.

Of diſcharging Priſoners for want of Proſecution.

If a Writ be returnable in *Eaſter* Term, and nothing is done in *Trinity* Term, upon the Priſoners getting a Certificate thereof from the Gaoler, (that there is no Declaration delivered, or *Habeas Corpus* brought,) and likewiſe getting ſigned *Fiat Superſedeas*, by a Judge, for which he is paid Four Shillings; the Filacer of the County will on carrying him the *Fiat*, make a *Superſedeas*, and at the ſame Time enter an Appearance for the Priſoner, who will thereupon be diſcharged.

RULES

Com. Pleas.

Eaſter *Term*, 8 *King* Geo. 2.

RULES to be obſerved for diſcharging Priſoners committed to the Fleet *Priſon, County and other Gaols, and for diſcharging Perſons rendering themſelves, or being rendered to* Fleet *Priſon, in Diſcharge of their Bail, (by Virtue of Proceſs of the Court) by* Superſedeas *for want of Proſecution.*

If Plaintiff has declared againſt Priſoner, and does not proceed to Judgment in three Terms.

IT is Ordered, That if any Plaintiff ſhall declare againſt any Defendant in Cuſtody of the Warden of the *Fleet*, or of any Sheriff, or other Officer, by Virtue of any Proceſs of this Court, and ſhall not further proceed to Judgment within three Terms after ſuch Declaration delivered, incluſive of the Term in which the Declaration ſhall be delivered, the Defendant having appeared;

Or after obtaining Judgment does not charge the Priſoner in Execution in two Terms, he may be diſcharged by Superſedeas.

Or if any Plaintiff having obtained Judgment in this Court in any Action againſt any Defendant, a Priſoner as aforeſaid, and ſhall not charge ſuch Defendant, ſo remaining a Priſoner in Execution upon the Judgment ſo obtained, within two Terms next after ſuch Judgment ſo had and obtained, including the Term in which the ſaid Judgment ſhall be ſigned; then ſuch Defendant ſo remaining in Priſon may be diſcharged out of Cuſtody, where he ſhall be ſo detained, by *Superſedeas* to be allowed by one of the Juſtices of this Court, if Cauſe ſhall not be ſhewn by the Plaintiff or his Attorney, why ſuch Plaintiff had not proceeded before that Time

Notice being given to Plaintiff, and Oath thereof.

Time to Judgment and Execution as aforeſaid, upon Notice to either of them given by the Defendant's Attorney or Agent, and Oath made of ſuch Notice given. Com. Pleas.

And if any Defendant ſhall render himſelf or herſelf to be rendered to the *Fleet* Priſon in Diſcharge of his or her Bail, at the Suit of any Plaintiff, where no further Proceedings by Declaration have been had againſt ſuch Defendant ſo rendered before ſuch Render, unleſs the Plaintiff ſhall declare againſt ſuch Defendant within two Terms after ſuch Render. And where any Declaration hath been delivered againſt ſuch Perſons ſo rendering themſelves, or Judgment has been had againſt him or her before ſuch Render, unleſs the Plaintiff ſhall proceed to Judgment upon ſuch Declaration delivered with three Terms after ſuch Render, (the Defendant having appeared) and charge ſuch Defendant in Execution within two Terms after ſuch Judgment obtained, ſuch Defendant may be diſcharged out of Cuſtody by *Superſedeas*, to be allowed by one of the Juſtices of this Court, if Cauſe ſhall not be ſhewn to the contrary, as aforeſaid, by the Plaintiff, or his Attorney, upon Notice to either of them given by the Defendant's Attorney or Agent, and Oath made of ſuch Notice.

If Plaintiff does not declare againſt Defendant in two Terms after Render, or having declared before Render does not proceed to Judgment in three Terms after Render; or if Judgment has been had before Render, does not charge Defendant in Execution in two Terms after, Priſoner may be diſcharged, as aforeſaid.

P. King,
Jo. Blencoe.

Ro. Tracy,
R. Dormer.

Com. Pleas Hill. 8 G. 2. *Of Arreſt after Diſcharge.*

In all Caſes where a Priſoner in the *Fleet* or other Gaol or Priſon is diſcharged, or ordered to be diſcharged by this Court, or any of the Juſtices thereof, by *Superſedeas* for Want of Proſecution; and ſuch Priſoner be afterwards arreſted or detained in Cuſtody by Action of Debt brought upon Judgment obtained in the Cauſe, wherein ſuch Priſoner was ſo diſcharged or ordered to be diſcharged; a common Appearance ſhall be accepted for the Defendant in ſuch Action.

Note; If you declare in the Court of King's Bench againſt a Defendant Priſoner, and he afterwards removes himſelf to the *Fleet*, you may proceed on that Declaration delivered, but in order to charge him in Execution, he muſt be brought up by *Habeas Corpus*.

See the Stat. 1 *Anne*, *cap.* 6. and 5 *Anne*, *cap.* 9. concerning Priſoners eſcaping out of Cuſtody, taken by a Judge's Warrant, and carried to the next County Gaol; for which Purpoſe I have here briefly added a Declaration in Caſe againſt the Sheriff for ſuffering an eſcaped Priſoner to go at large, which ſeems to be well drawn.

Declaration

Declaration against Sheriff on Prisoners Escape.

THE Declaration shews Process of Bill of *Middlesex*, and to what Purpose; the taking the Party thereon by the Sheriff of *Middlesex*; his being brought by *Habeas Corpus* before one of the Justices of the Common Pleas; his Commitment to the *Fleet* thereupon, (all set forth very precisely) and then it was ordered, *&c.* as follows:

AND the said *J. L.* so being a Prisoner in the Prison of the *Fleet*, and him the same *B.* having the aforesaid Cause of Action against the same *J.* he the same *B.* according to the form and Effect of the Statute in such Case lately made and provided, afterwards, and within the aforesaid Term of St. *Michael*, to wit, the sixteenth Day of *November* in the sixth Year aboveſaid, hath filed and entered in the aforesaid Court of the Lord the King of Common Bench here with the proper Officer in that Behalf, his Declaration in the Action aforesaid against the aforesaid *J. L.* by which said Declaration the same *B.* hath impleaded the aforesaid *J.* of a Plea of Trespass upon the Case, for not performing divers Promises and Assumptions of the said *J.* to pay the aforesaid Money by him to the same *B.* so owing for the aforesaid Goods, Wares and Merchandizes of the same *B.* bought, had and received to the Damage of the said *B.* 4*l.* And the same *B.*

Com. Pleas. afterwards, to wit, the ſame Day and Year delivered a true Copy of that Declaration to one *T. N.* then Turnkey of the aforeſaid Priſon of the *Fleet*, to wit, at *L.* aforeſaid, in the Pariſh and Ward aforeſaid; upon which ſaid Declaration in the Action aforeſaid ſuch Proceedings were in the ſame Court of the Bench here, that the ſame *B.* afterwards, to wit, the ſame Term of St. *Michael*, in the ſixth Year aboveſaid recovered and obtained in the ſame Action the Judgment of the ſame Court of Common Bench here, by which ſaid Judgment it was conſidered by the ſame Court here that the ſame *B.* ſhould recover his Damages againſt the aforeſaid *J. L.* by Occaſion of the Non-performance of the Promiſes and Aſſumptions aforeſaid, as by the Record and Proceedings of that Judgment in the aforeſaid Court of Bench here remaining more fully appears. And the ſaid *J. L.* after the Commitment, and before he made any Payment or Satisfaction to the ſame *B.* to wit, the firſt Day of *June* in the Year aboveſaid eſcaped out of the aforeſaid Priſon of the *Fleet*, and out of the Cuſtody of the then Warden of that Priſon, without the Leave, and againſt the Will of the ſaid *B.* and went at large where he would, and got ſafe away, to wit, at the aforeſaid Pariſh of St. *Martin* in the aforeſaid County of *Middleſex*, (him the ſame *B.* of the aforeſaid 36*l.* or any Parcel thereof, then or hitherto being in no wiſe ſatisfied.) And afterwards, to wit, the thirty-firſt Day of *May* in the fifth Year of the Reign of the Lord the now King, the aforeſaid *J. L.* having ſo eſcaped and gone at large without the Leave aforeſaid; by Virtue of

certain

certain Warrant under the Hand and Seal of the aforeſaid *R. T.* then and hitherto one of the Juſtices of the ſaid Lord the King of the Common Bench here at *Weſtminſter* aforeſaid, being made by him in due Manner, according to the Form of the Statute in ſuch Caſe lately made and provided to the ſame *B.* at his Requeſt, there granted, and to all Sheriffs, Mayors, Bailiffs, Conſtables, Headboroughs, and Tithingmen, in that Behalf directed, according to the Form of the Statute aforeſaid, by one *Heneage Norton*, then being a Conſtable within the aforeſaid County, to be executed, to whom that Warrant was there delivered to execute in due Manner was followed and retaken, to wit, at *A.* in the aforeſaid County of *B.* and the aforeſaid *J. L.* being ſo retaken by Virtue of that Warrant immediately, to wit, the ſame Day and Year laſt mentioned, in due Manner, according to the Form and Effect of the Statute aforeſaid was conducted and committed to the common Gaol of the aforeſaid County of *B.* then being at *A.* aforeſaid under the Cuſtody of the ſaid *H. A.* then being Sheriff of the ſame County of *B.* there to remain according to the Form of the Statute aforeſaid, until he the aforeſaid *J. L.* ſhould make full Payment or Satisfaction to the ſame *B.* or until the Judgment in the aforeſaid Action ſhould be given for him the ſame *J. L.* Whereupon the aforeſaid *H. A.* then Sheriff of the aforeſaid County of *B.* the aforeſaid thirteenth Day of *May* in the Year aboveſaid then and there took the aforeſaid *J. L.* into his Cuſtody, and the ſame *J.* in his Cuſtody, by Virtue of the Warrant aforeſaid, there had Com. Pleas.

Com. Pleas. and detained; and the ſame *H. A.* the Warrant aforeſaid into the aforeſaid Court of the Lord the King of Common Bench here, in due Manner hath returned, to be in all Things executed, entered, and filed of Record; and the ſame Warrant in the ſame Court here of Record is entered and filed, as by the Record thereof in the ſame Court here remaining more fully appears. And the ſaid *J. L.* being detained in the Cuſtody of aforeſaid *H. A.* in Form aforeſaid, the ſame *H.* afterwards, to wit, the firſt Day of *July* in the ſixth Year aboveſaid, then being Sheriff of the aforeſaid County of *B.* permitted the aforeſaid *J. L.* freely and voluntarily to eſcape and go at large out of that Priſon laſt mentioned, and out of his Cuſtody where he would, to wit, at the Pariſh of St. *Martin* in the aforeſaid County of *Middleſex*, (the ſame *B.* then and not yet having in no wiſe paid or ſatisfied his Debt aforeſaid, or of any Part thereof,) and the aforeſaid *J. L.* hath conveyed himſelf to Places altogether unknown to the ſame *J. B.* and as yet abſconds himſelf, ſo that the aforeſaid *B.* by no Proceſs of Law can retake the ſame *A.* and therefore the aforeſaid *B.* hath not only loſt his Debt aforeſaid, but alſo been deprived of the whole Benefit and Advantage of his Suit aforeſaid, to the Damage of the ſaid *B.* 56*l.* And therefore he brings his Suit, *&c.*

Com-

Commitments.

Commitment to the Fleet *after Judgment.*

AND the aforeſaid (*Defendant*) in Mercy, *&c.* **Afterwards**, to wit, the twenty-ſixth Day of *November* in the fifth Year of the Reign of the Lord the now King, came here into Court the aforeſaid (*Defendant*) in his proper Perſon; and upon this the ſame (*Defendant*) is committed to the Priſon of the ſaid Lord the King, of the *Fleet*, on Occaſion of the Premiſſes, there to ſtay until, *&c.*

Another Commitment to the Fleet *in Diſcharge of Bail*, &c.

Afterwards, to wit, (*ſuch a Day*) then next following, the aforeſaid *W.* came here into Court in his proper Perſon, and as well for his own proper Indemnity, as for the Indemnity of his Bail, prays that he may be committed by the Court here to the Priſon of the *Fleet* of the Lord the King, by Reaſon of the Judgment aforeſaid, there to ſtay until, *&c.* And that his ſame Manucaptors may be diſcharged of their Bail aforeſaid, *&c.* whereupon the ſame *W.* preſent here in Court at the Deſire of the aforeſaid (*Plaintiff*) is committed to the Priſon aforeſaid, in Execution for the Debt

Com. Pleas. and Damages aforeſaid, in Form aforeſaid recovered, there to continue until, &c. and the aforeſaid Manucaptors, to wit, *A. B.* and *C. D.* of their Bail and Recognizance aforeſaid on this Behalf made by the Court here are fully diſcharged, *&c.*

Demurrers. *Note*, That the Matters of Demurrers are much the ſame here, as in the King's Bench.

Poſtea's. And as to *Poſtea's* upon Records after Verdict you have your Record returned by the Clerk of the *Poſtea's*, and from thence carry it to the Prothonotary to tax Coſts, who gives the *Poſtea* to the Clerk of the Judgments, and he takes Care of continuing the ſame on the Roll, *&c.*

See in the King's Bench, concerning reverſing Judgments by Error.

If the Errors be allowed, the Judgment is made void, and the Defendant may have Reſtitution.

If the Error be not allowed, then is the former Judgment affirmed.

But obſerve, That notwithſtanding the Reverſal of a Judgment, the Plaintiff's Cauſe of Action is not thereby taken away; but he may bring a new Action againſt the Defendant for the ſame Cauſe if he will.

Non

Non Prof.

Entry of a Non Prof' *after Appearance by the Defendant, for want of a Declaration.*

—ſſ. A. *B.* who brought the Writ of the Lord the now King againſt *C. D.* late of, (*&c.*) of a Plea of Treſpaſs upon the Caſe, hath not proſecuted his Writ aforeſaid; therefore he, and his Pledges of proſecuting, ſhall be in Mercy, the Names of the Plaintiff's Pledges, *&c.* And that the aforeſaid *C.* may go thereof without a Day. It is alſo conſidered, that the aforeſaid Defendant do recover againſt the aforeſaid (*Plaintiff*) his Damages on Occaſion of the Premiſſes to forty Shillings, adjudged by the Court here according to the Form of the Statute, *&c.* to the ſame (*Defendant*) by the Diſcretion of the Juſtices here, at his Requeſt, for his Coſts and Charges in this Behalf ſuſtained, *&c.*

Upon this, drawn upon Paper, Coſts are ſigned by the Prothonotary, as in other Judgments. See before in the *King's Bench.*

Entry of a Non Prof' *for Want of a Replication.*

After the Plea *go on in the ſame Line thus:* Whereupon the ſaid *A.* being ſummoned to

Com. Pleas. to reply to the Plea of the ſaid *C.* came not, nor doth he further proſecute his Writ againſt the ſaid *C.* **Therefore** it is adjudged that the ſaid *A.* and his Pledges of proſecuting be in Mercy; And the ſaid *C.* may therein go without a Day. **It is likewiſe** adjudged by the Juſtices of this Court that the ſaid *C.* do recover againſt the ſaid *A.* —— for his Damages and Coſts awarded to the ſaid *C.* at the Diſcretion of the ſaid Juſtices, according to the Form of the Statute in ſuch Caſe made and provided; And let the ſaid *C.* have Execution thereon, *&c.*

See for the Time of ſigning *Non Proſ'*, Title **Declarations.**

Of ſuing to the Outlawry.

IF you intend to ſue any Perſon to the Outlawry, (who is not eaſily to be taken, and hath not ſufficient Eſtate in the County, whereby to be ſummoned, *&c.*) as you may in *Treſpaſs*, *Treſpaſs and Aſſault*, *Account*, *Caſe*, *Covenant*, *Debt*, *Detinue and Replevin*, you muſt make out a *Præcipe* in Debt, or a *Pone* in Caſe, Treſpaſs, Aſſault, Battery, *&c.* as is before directed, with the Additions of the Defendant.

Stat. 1 *H.* 5. *c.* 5. And this muſt be carried to the Curſitor of the County, where you lay your Action for an Original.

And *Note*, That the Outlawry, (unleſs laid in *London*, as moſt are) will ſcarce be perfected under

under three Terms; becauſe there muſt be fifteen Days, or more, between the Teſte and the Return of each Writ of *Capias*, *Alias*, and *Pluries*; and the Return of the firſt Writ is the Teſte of the ſecond, and ſo in Order. Alſo there muſt be five County-Days betwixt the Teſte and Return of the Exigent; and on the fifth County-Day, Defendant not appearing, is outlawed. Com. Pleas.

But in *London* you may ſue to the Outlawry three Times in the Year, becauſe their Huſtings are oftner than their County-Days: And this is the Reaſon that moſt lay their Actions in *London*, in ſuing to the Outlawry.

Alſo in a Vacation you may take the Benefit of the precedent Term for your Original, and ſo you may the Term following, provided you beſpeak it of the Curſitor within ſeven Days after the Term begun, otherwiſe you will loſe that Advantage.

Having gotten your Original, you may return it of Courſe thus:

Pledges of proſecuting, { *John Doe*, *Richard Roe*. } *You may have four Names in one Writ.*

Note; If in Caſe or Treſpaſs, you ſay, *by which he can be attached.* { The within named *A.* hath nothing in our Bailiwick by which he can be ſummoned.

The Anſwer of *H. P.* Knt. and *S. T.* Knt. Sheriffs.

Then

Com. Pleas. Then you carry your Original thus returned to the Filacer of the County, who thereupon will make you out *Capias*, *Alias* and *Pluries* altogether, if your Original will bear it, which you muſt pay him for, and then get them ſealed. After this, you may return your *Capias*, *Alias* and *Pluries* of Courſe ſeverally after this Manner:

* Naming the Defendants in the Writ. } The within named * *A.* is not to be found in our Bailiwick.

The Anſwer of *A. B.* Knt. and *C. D.* Knt. Sheriffs.

Having thus returned all your Writs, you may either carry the *Capias* and *Alias* to the Filacer, or keep them by you. But you muſt next make out a Warrant of Attorney for the *Pluries* upon a Bit of Parchment, after this Manner, for the Plaintiff.

Michaelmas the fifth of King *George* the Second.

London, to wit, *C. D.* puts in his Stead *D. R.* his Attorney, againſt *A. B.* late of, (*&c.*) of a Plea of Treſpaſs, (*or Debt, as the Caſe is.*)

Power.

Next you muſt carry this Warrant of Attorney to the Clerk of the Warrants to file it, and then he will ſtamp your *Pluries*. After you have thus done, you muſt carry your *Pluries*

Pluries to the Exigenter of the County where the Action is laid, who will thereupon make you out an *Exigent* and Proclamation, which you muſt get ſealed, and (if in *London*) then you muſt carry the *Exigent* to one of the *Compters*, and leave it there to be perfected, and your Proclamation you muſt ſend down to the Sheriff of the County of which the Defendant is named, to be executed. At the Return of the Proclamation you muſt file it with the *Cuſtos Brevium*; and having got the Return of your *Exigent*, you may carry it to the Clerk of the Outlawries, and he will make you out a *Capias Utlagatum* upon it, either general or ſpecial, the one is againſt the Body only, the other is againſt the Body, Goods and Lands, upon which you proceed, *&c.* Com. Pleas.

Note, That if it happen that there be not five County-Days between the Teſte and Return of the *Exigent*, you muſt be forced to procure another Writ, called an *Allocatur*, from the Exigenter, to bring in the five County-Days; and ſo it muſt be in *London*, if it wants a Huſting. *Allocatur.*

But *Note*, That you may take out your Proceſs in Order, and endeavour to take the Defendant upon any of them.

The two chief Terms to commence Suits to the Outlawry, eſpecially for the County, are *Eaſter* and *Michaelmas*.

If you begin in *Eaſter* Term, you may procure your *Capias* and *Alias Capias* returnable in *Trinity* Term, and in *Trinity* Term ſue forth your *Pluries*, *Exigent* and *Proclamation*.

In

Com. Pleas. In *Michaelmas* Term you may ſue forth the *Original Capias* and *Alias Capias*, returnable the ſame Term, and a *Pluries Capias*, returnable in *Hillary* then next following, and in the ſame Term procure your *Exigent* and *Proclamation*.

But in *London* you may begin in *Trinity* Term, and the Party may be outlawed in *Hillary* following; the Huſtings being kept every Fortnight, and the County-Court only every Month.

Of Superſeding the Exigent *and Reverſing the* Outlawry.

By Rule of Court, Trin. 2 Jac. 2. It is Ordered, That no Outlawry ſhall be reverſed after the Death of the Plaintiff, unleſs the Defendant appear and put in ſpecial Bail, (if the Action ſo requires) to the Executor or Adminiſtrator, or to the Husband and Wife, where ſhe, whilſt *Femé Sole*, ſued the Defendant to an Outlawry; provided the Plaintiff's Attorney to the Writ of *Exigent* do, within fourteen Days after Notice to him given of the Defendant's Intention to reverſe the Outlawry, deliver the Names of the Executor or Adminiſtrator to the proper Prothonotary.

No Superſedeas *after Return of the* Exigent, *unleſs Defendant pay full Coſts.* That on every Writ of *Exigent* which ſhall be ſued forth, if a *Superſedeas* be not put in thereunto, at or before the Day of Appearance thereof, that no *Superſedeas* ſhall by any Sheriff be allowed to any ſuch Writ, until the Defendant ſhall have paid the Plaintiff,

or left with one of the Prothonotaries, the full Coſts of Suit. Com. Pleas.

That the Defendant ſhall, before Reverſal of any Outlawry, or any *Superſedeas* made thereunto, put in Bail, if the Sum or Damages in the Original be ten Pounds, or above, and pay full Coſts of Suit to the Exigent, as aforeſaid; and if the Plaintiff hath extended Goods, *&c.* of the Perſon outlawed, further Coſts ſhall be taxed by the Prothonotary, and paid to the Plaintiff as aforeſaid, before any Certificate of Reverſal ſhall be made by the Clerk of the Outlawries. *And before Reverſal put in Bail, if the Debt be* 10 l. *or above.*

Proceedings in Ejectment.

Cooke.

Trinity *the* —— *of King* George *the Second.*

Middleſex, to wit, A. *B.* late of *C.* in the County aforeſaid, Yeoman, was attached to anſwer *E. F.* of a Plea, wherefore with Force and Arms he entered into one Meſſuage, *&c.* (*naming them*) with the Appurtenances in *G.* in the ſaid County, which *H. J.* Gent. demiſed to the ſaid *E.* for a Term which is not yet expired, and ejected the ſaid *E.* from his Farm aforeſaid, and other Wrongs to him did, to the great Damage of the ſaid *E.* and againſt the Peace of the Lord the now King: And whereupon the ſaid *E.* by *D. R.* his Attorney complains, that **whereas** the aforeſaid *H. J.* on the firſt Day of *May* in the 14th Year of the Reign of the Lord the now King, at *G.* in Note; *If the Land or Premiſſes be in ſeveral Pariſhes, the* Venue *muſt be but in one.*

Com. Pleas. in the County aforeſaid, had demiſed to the ſame *E.* the Tenements aforeſaid with the Appurtenances, to have and occupy the Tenements aforeſaid with the Appurtenances to the ſame *E.* and his Aſſigns, from the firſt Day of *March* then laſt paſt, unto the End and Term of five Years from thence next following, and fully to be compleat and ended: By Virtue of which ſaid Demiſe the ſame *E.* entered into the Tenements aforeſaid, and was poſſeſſed thereof; and the ſaid *E.* being ſo poſſeſſed thereof the aforeſaid *A.* afterwards, to wit, the ſame firſt Day of *May* in the 14th Year abovesaid, with Force and Arms, *&c.* entered into the Tenements aforeſaid with the Appurtenances, which the aforeſaid *H. J.* demiſed to the ſame *E.* in Form aforeſaid, for a Term which is not yet expired, and ejected the ſaid *E.* from his Farm aforeſaid, and other Wrongs, *&c.* to the great Damage, *&c.* and againſt the Peace, *&c.* Wherefore he ſaith that he is injured, and hath Damage to the Value of twenty Pounds: And therefore he brings his Suit, *&c.*

Note; This Ejectment being uſually to try a a Title, the Plaintiff makes ſome Friend Defendant; and then Notice is given to the Tenant in Poſſeſſion to defend his Title, after the Manner of the *King's Bench*, to wit, under the Declaration. See the Form thereof in the *King's Bench.*

If there be Occaſion to make an Affidavit of the Service of the Declaration to ground a Rule for Judgment by Default, you annex a Copy of the Declaration wrote upon a double

Penny Stamp to the Affidavit. The Form of the Affidavit you will find in the *King's Bench*. Com. Pleas.

And after a Motion, you call on the Secondary to draw up the Rule againſt the caſual Ejector, for which he now takes ſix Shillings; to wit, the Affidavit two Shillings, Rule two Shillings, Duty two Shillings; and if the Affidavit was taken in the Country, one Shilling more.

Then you carry this Rule to the Prothonotary to ſign, for which he takes two Shillings; but now the Secondary uſually takes the two Shillings, which makes nine Shillings.

Note; The Secondary upon the Motion keeps your Affidavit and Declaration, ſo that you ought to have another filled up by you, or to fill up one by that in his Cuſtody.

But if the Tenant appear, and is willing to enter into a Rule by Conſent, it is to be drawn up after this Manner, to wit,

Note; *Theſe Rules are to be had ready printed.*

Cooke.

Hillary the 14*th of King* George *the Second.*

Middleſex, to wit, IT is ordered by the Court, by the Aſſent of *J. S.* the Plaintiff's Attorney, and *C. D.* the Attorney for *A. B.* who claims Title to the Tenements in Queſtion, that the ſaid *A. B.* may be admitted Defendant, and that the ſame *A.* ſhall immediately appear by his Attorney aforeſaid, who ſhall receive a Declaration, and plead thereto the General Iſſue this Term. And at the Trial to be had thereupon, the

Denn againſt *Fenn*, of one Meſſuage, *&c.* with the Appurtenances in *S.* in the County of *M.* on the Demiſe of *R. E.*

Com. Pleas. ſame *A.* ſhall appear in his proper Perſon, or by his Counſel or Attorney, and confeſs Leaſe, Entry and Ouſter, of ſo much of the Tenements in the Plaintiff's Declaration ſpecified, as is in the Poſſeſſion of the ſaid Defendant, or his Tenants, or any Perſons claiming by or under his Title; or that in Default thereof, Judgment be entered againſt the Defendant *R. Fenn*, the caſual Ejector, but Proſecution ſhall be ſtayed againſt him, until he makes Default in any of the Premiſſes. And by Conſent of Counſel it is further ordered, that if by reaſon of ſuch Default the Plaintiff ſhall become nonſuited upon the Trial, the ſaid *A.* ſhall take no Advantage thereof, but ſhall pay to the ſame Plaintiff the Coſts for the ſame, to be taxed by the Prothonotary. And it is further ordered, that the Leſſor of the Plaintiff ſhall be chargeable with the Payment of the Coſts of the aforeſaid *A.* by the Court here in any Manner to be allowed or adjudged.

Note; *This Rule need not be ſtamped.*

By the Court.

J. S. for the Plaintiff,
R. S. for the Defendant.

The Defendant's Attorney may ſign the Rule by himſelf, and leave it with his Plea in the proper Office.

The Attornies having written their Names to the Bottom of the Rule, then you enter an Appearance upon it with the Filacer of the County, for which he takes one Shilling; and if two Defendants, one Shilling four Pence. Then you carry it to the Prothonotary to pay for *Li. Lo.* who takes two Shillings; then to the Secondary, who takes one Shilling ſix Pence, beſides Duty, and keeps your Rule by Conſent

Conſent, and fills you up two others after this Manner: Com. Pleas.

Cooke.

Hillary the fifth of King George *the Second.*

Denn againſt *Fenn*, to wit, It is ordered by the Court on the Aſſent of, *&c.* (*as before.*)

By the Court,

Cooke.

One of which you afterwards affix to a Copy of the Iſſue, and deliver it to the Defendant's Attorney, who uſually has it *Gratis*, becauſe he does not put you to the Trouble of a Motion; and you may alſo then give him Notice of Trial, if you think fit.

Yet I have known the Fees of Delivery thus:

	l.	*s.*	*d.*
Copy Iſſue, —— ——	0	2	6
Half of the Rule, ——	0	3	6
Appearance, —— ——	0	2	0
Entring Plea, —— ——	0	2	0
Warrant of Attorney, ——	0	0	8
	0	10	8

Of which the Defendant's Attorney will abate about five Shillings for his half Fee.

Con. Pleas.

Of ſigning Judgment againſt the Caſual Ejector.

If you are to ſign Judgment againſt the Caſual Ejector, firſt ſearch the Prothonotary's Plea-Book; if no Plea be, you muſt ſtamp the Declaration you kept by you with a double Half Crown Stamp; or rather make a Copy of it, on a Sheet of double Half-Crown ſtamped Paper; then affixing the Rule againſt the Caſual Ejector, the Prothonotary will ſign your Judgment, for which he takes twelve Shillings and eight Pence. After this, you may make out your Writ of Poſſeſſion, the Form whereof ſee before amongſt the Executions. Fee for Signing is one Shilling and four Pence; then enter your Judgment by *Nil dicit* on a Roll, *&c.*

Of not proceeding to Trial according to Notice.

If the Plaintiff gives Notice of Trial, and proceeds not at the Aſſizes, then upon an Affidavit made thereof the Defendant may have a Rule of Courſe for the Prothonotary to tax Coſts for the Defendant's Attendance, to wit,

A. B. againſt *C. D.* in *G* on the Demiſe of *S. E.*

Michaelmas *the* —— *of King* George *the Second*, November *the twenty-fourth.*

Upon the Oath of *R. B.* Gent. It is Ordered, that the Leſſor of the Plaintiff ſhall pay

pay to the Defendant, or his Attorney, the Costs, by Mr. *Thompson* to be taxed in the Presence of the same Lessor of the Plaintiff, or his Attorney, if he is willing to be present, for his Attendance at the last Assizes holden for the County of *H.* for that the same Lessor did not proceed to Trial, according to the Notice given; unless the Lessor of the Plaintiff upon Notice of this Rule to him, or his Attorney given, shew sufficient Cause to the contrary, before the aforesaid Mr. *Thompson* at the Time of taxing those Costs. Com. Pleas.

By the Court.

Townsend.

Note; Upon this Rule, (the Attorney not attending in reasonable Time,) the Prothonotary allows common Costs thirty-three Shillings and fourpence, and takes no Fee thereupon.

Amendments.

Of Avowry.

MOtion to alter the Sum due for Rent in an Avowry, it being miscomputed, which was opposed, Demurrer being joined, and the Cause being in the Paper for Argument. But the Court ordered the Amendment on paying the Costs. *Harry* v. *Bant*, *H.* 11 *G.* 2.

Com. Pleas. The Defendant moved to amend his Avowry (after Argument upon Demurrer, and a Rule for further Argument) by inſerting three neceſſary Requiſites to juſtify his Diſtreſs; but the Motion was denied, the former Argument having been upon the Merits, and there not being ſufficient Matter ſet out in the Avowry to amend by. *Woodman* v. *Inwen*, *Tr.* 11 & 12 *G.* 2. *C. B.*

Of Bail-pieces.

The Bail-piece on an *Attachment of Privilege* was ordered to be amended by making the Recital of the Writ agreeable to it, inſerting the Return which was omitted, and in other Particulars. *Welland an Attorney* v. *Pitts*, *M.* 7. *G.* 2. *C. B.*

Note; A Rule was ſerved on the Sheriffs of *London* to bring in the Body, and the Plaintiff inſiſted upon Coſts, on Amendment of the Bail-piece, but the Court ſaid he muſt proceed upon his Rule againſt the Sheriff for Coſts, if intitled to any, for it was not proper to ask for Coſts on this Motion. The Bail immediately after the Bail-piece was amended juſtified in Court: But afterwards on Plaintiff's Motion the Court granted an Attachment againſt the Sheriffs for not bringing in the Body on Affidavit of the perſonal Service of the Rule upon the High Sheriffs, they not ſhewing Cauſe to the contrary.

Of

Com. Pleas.

Of Bills againſt Attornies.

A Bill againſt an Attorney concluded, *& inde producit ſectam, &c.* inſtead of *& inde petit Remedium, &c.* And upon Motion in the Treaſury the Judges ordered it to be amended, upon Payment of Coſts to be taxed, *niſi Cauſa*; and the Rule was afterwards made abſolute upon Affidavit of Service. This Caſe is like that where the Curſitor may amend an *Original* by his Inſtructions, even in Subſtance and in mere Form he may amend his own Miſtake. The Plaintiff's Attorney had Inſtructions to file a Bill, which he hath not done; he hath made it a Declaration and not a Bill. *Clarke* v. *Cotton an Attorney*, *M.* 6 *G.* 2. *C. B.* 3. C. C. Barnes

Motion to amend a Declaration by ſtriking out the Words *brings Suit*, and inſerting *prays Relief.* Granted on Payment of Coſts, tho' the Court thought the Amendment unneceſſary. *Maſon* v. *Littlehales Attorney*, *E.* 12 *G.* 2. *C. B.* 11. C. C. Barnes

Of Capias ad Satisfaciendum.

Motion to amend the Writ by the Record of the Judgment, by making the Defendant's Name *Edmund* inſtead of *Edward.* Rule to ſhew Cauſe, which was afterwards made abſolute. *Browne* v. *Hammond*, *E.* 12 *G.* 2. 10. C. C. Barnes

Com. Pleas.

Of Declarations.

V. C. Barnes 5. On a Motion in the Treaſury, it was ordered that a Declaration upon a common *Clauſum fregit* might be amended on Payment of Coſts, the Plaintiff having declared againſt the Defendant as Adminiſtrator, who pleaded that Adminiſtration was never committed to him, but ſhould have declared againſt the Defendant as Executor. *Browne* v. *Shipman*, *H.* 7 *G.* 2. *C. B.*

V. C. Barnes 6. The Plaintiff on Motion obtained a Rule to ſhew Cauſe why his Declaration ſhould not be amended on giving an Imparlance: On ſhewing Cauſe it appeared that the Defendant had demurred and given a Rule to join in Demurrer. Therefore he muſt pay Coſts and cannot amend, on giving an Imparlance, the Rule was made abſolute on Payment of Coſts. *Taylor* v. *Bramble*, *M.* 8 *G.* 2. *C. B.*

V. C. Barnes 6. On a *Teſtat' Capias* from *London* into *Oxfordſhire*, and Bail put in with the Filazer of *London*, the Plaintiff by Miſtake declared in *Oxfordſhire*, and afterwards moved in the Treaſury to amend according to the Writ, by declaring in *London*, which was ordered upon Payment of Coſts, notwithſtanding the Defendant had pleaded. *Southam* v. *Jennings*, *M.* 9 *G.* 2. *C. B.*

V. C. Barnes 7. A Declaration in Prohibition was ordered to be amended by a Judge, but on Motion (the Amendments not being warranted by the Suggeſtion, or the Acts of the ſpiritual Court,) the Order was diſcharged. *Coates* v. *Midgley*, *Tr.* 10 *G.* 2. *C. B.*

The

The Court on Motion to enlarge the Demiſe in an Ejectment, which was near expiring, declared it had no Power to do it without the Conſent of the Defendant's Counſel. This was on a ſpecial Verdict, and the Court had taken Time to conſider. *Scrape* v. *Rhodes*, *Tr.* 10 & 11 *G.* 2. *C. B.* Com. Pleas. L. C. Barnes 8.

Motion to amend a Declaration after the Plea-Roll filed. The Defendant's Counſel ſaid that the Motion ought to be to amend the Roll and not the Declaration; and that the Amendments prayed being very long could not be made without defacing the Roll, which ought not to be ſuffered; the Plaintiff's Counſel replied that a *Vacatur* might be marked on the Roll filed, or it might be taken off the File, and a new one of the ſame Number filed in its Place, but the Court ſaid that ſuch Practice is unwarrantable, and that the Amendments prayed would greatly deface the Roll, therefore denied the Motion. *Lee* v. *Daniel*, *H.* 11 *G.* 2. *C. B.* L. C. Barnes 8.

Motion to amend a Declaration after Argument upon Demurrer granted; the Merits of the Cauſe not coming in Queſtion upon the Argument, but only the Form of Pleading. *Farmer* v. *Burton*, *E.* 11 *G.* 2. *C. B.* L. C. Barnes 9.

Motion to amend the Original Writ and Declaration, *in Quare impedit*, by making the Plaintiff a Co-adminiſtrator inſtead of Executor. The Plaintiff's Counſel urged the Reaſonableneſs of the Amendment from the Neceſſity of the Thing, if the Original could not be amended, ſix Months being paſſed a Lapſe would incur. He cited *Cro. Eliz.* 119. *Rooksby's* Caſe. *Cro. Car.* 74. *Turner* v. *Palmer*. 4 *Lev.* 12. 3 *Lev.* L. C. Barnes 9.

Com. Pleas. 3 *Lev.* 347. *Fitzgibbon* 193. The Ducheſs of *Marlborough* v. *Wigmore*, *Merrick* v. *Hundred* of *Oſſulſton*, *Paſ. & Trin.* 10 *G.* 2. in *B. R.* But (upon ſhewing Cauſe) the Defendant's Counſel inſiſted that the Caſes cited were for Miſpriſions, where the Officer had miſtaken his Inſtructions, and upon Affidavit and Examination of the Officer *Ore tenus* in Court, Amendments have been made and cited. *Turner* v. *Peck*, *M.* 4 *G.* 2. *B. R. Per Cur.* The Doctrine of Amendment of Original Writs (which is purſuaut to the Statute 8 *H.* 6. and not by the Common Law) is ſettled in the Books.

Firſt, No Amendment of an Original, unleſs for Neſcience or Miſpriſion of the Clerk. The Court will take Care that the Suitor ſhall not ſuffer by the Officer's Error; but had it been the Attorney's Miſtake, the Party muſt have had his Remedy againſt him.

Secondly, There muſt be ſomething to amend by.

Both theſe Requiſites are wanting in this Caſe.

The Rule diſcharged. *King*, *Executor*, v. *Bp. of Carliſle*, *the Univerſity of Cambridge*, *Lamb and Gibſon*, *M.* 12 *G.* 2. *C. B.*

Of

Com. Pleas.

Of Interrogatories and Examination upon an Attachment of Contempt.

The Defendant was examined upon Interro- M. C. Barnes
gatories, an Attachment being iſſued againſt 10.
him for not returning a Writ, he moved to amend his Examination upon the 4th Interrogatory, having referred to his own Affidavit inſtead of an Affidavit made by other Perſons; Plaintiffs oppoſed the Motion, and prayed that the Proſecutor might amend a Miſtake in the Title of the Interrogatories by making it between the King and *Hartop* inſtead of the original Action. The Court ordered the Interrogatories to be amended, and the Defendant to be re-examined upon the 4th Interrogatory. *Rex* v. *Hartop*, late Sheriff of *Leiceſterſhire*, *M.* 12 *G.* 2. *C. B.*

Of Habeas Corpora Jurator' & Jurata's.

Motion to amend a *Habeas Corpora Jurator'* M. C. Barnes
after Trial, returnable on *Wedneſday* next after 7.
8 Days of the Purification, inſtead of *Wedneſday* in 15 Days of *Eaſter*. Rule *niſi*. Afterwards made abſolute upon hearing Counſel on both Sides. *Waldo* v. *Harriſon an Attorney*, *E.* 7 *G.* 2. *C. B.*

In the ſame Cauſe another Motion was made M. C. Barnes
to amend the *Jurata* in the Record of *Niſi* 5 — 6.
prius. The Court were of Opinion that as the *Habeas Corpora* was amendable by *Stat.* 5 *G.* and was amended, and the Day of *Niſi prius* thereby rightly appointed; the *Jurata*

Com. Pleas. *rata* which is not an Award of the Court, but only to annex the Proceedings, and is wrong by Miſpriſion of the Clerk, ought to be amended and made agreeable to the Writ. *Tr.* 7 & 8 *G.* 2. *C. B.*

Of Poſtea's.

On the Trial of a Cauſe at *Niſi prius* before the Lord Chief Juſtice, a Verdict was taken by Miſtake for the Defendant *J.* inſtead of finding him Non Guilty; as to the other Defendant a Verdict was found for the Plaintiff, Damages 200 *l.* The Plaintiff moved to amend the *Poſtea* as to *J.* which was ordered on hearing Counſel on both Sides. The Return of the *Poſtea* is the Act of the Chief Juſtice, and muſt be made as it ought to be. The Defendant's Counſel urged that the Verdict as to the other Defendant was contrary to Evidence, but whether that be ſo or not, the Verdict being right in Part cannot be ſet aſide. *Williams* v. *Jones and another*, *E.* 8 *G.* 2. *C. B.*

Of Records of Niſi Prius.

Placita of *Eaſter* Term, *Declaration* in Latin of *Hilary*, entred with an *Alias prout patet*; the Plea without an *Imparlance* of the ſame Term in *Engliſh*; a Rule *niſi* was diſcharged on Motion in Arreſt of Judgment, on ſhewing for Cauſe that the *Imparlance* was entred upon the Plea-Roll, and that the Record of *Niſi*

Niſi prius was amendable thereby. *Hale* v. *Breedon*, *Tr.* 6 & 7 *G.* 2. Com. Pleas.

Of Replications.

On an Action of Debt upon a Recognizance of Bail the Defendant pleaded Payment, the Plaintiff replied Non-payment, and concluded with an Averment inſtead of *to the Country*, to which the Defendant demurred generally. The Queſtion was whether this was helped by the Stat. of 4 & 5 *Annæ* for the Amendment of the Law. Rule for the Plaintiff *Niſi*; but afterwards the Plaintiff (on Advice of his Counſel) moved to amend upon Payment of Coſts. *Sharpe* v. *Starye*, *E.* 7 *G.* 2. *C.B.* C. C. Barnes

Of Returns of Writs.

In Replevin the Plaintiff was nonſuited for not declaring in this Court, and a *Retorn. Habend.* was iſſued, and an *Elongat.* returned thereon. And afterwards an Action was brought againſt the Sheriff for not taking Pledges, to which the Defendant pleaded that he took a Replevin Bond, to which the Plaintiff demurred. The Defendant moved to amend his Return of the *Re. fa. lo.* filed in *Michaelmas* Term 1735, by adding Pledges. A Rule to ſhew Cauſe was made, but they declared that the Pledges ought to be recorded in the Court below, and no Affidavit being produced of that Fact, there was nothing to amend by. C. C. Barnes

Rule

Com. Pleas. Rule to ſhew Cauſe diſcharged. *Jeane* v. *Langton* late Sheriff of *Somerſetſhire*. *Hil.* 11 *G.* 2. *C. B.*

Of Rolls or Entries.

v. c. Barnes 3. On a Motion to amend an Entry upon Record according to the Writs of *Sci. Fac.* & *Certiorari*, and the Returns thereof after Iſſue joined upon *Nul tiel Record*; the Court held that Amendments ought to be made by Common Law, without an Act of Parliament, where there is any Thing to amend by; Therefore granted the Motion upon Payment of Coſts, they being made imperfectly by Miſpriſion of the Clerk. *Hampſon* v. *Chamberlain*, *Mic.* 6 *G.* 2. *C. B.*

v. c. Barnes 3. The Court on Motion ordered the *Continuance* on the Roll to be amended by ſtriking out a general Return, and making it a Day certain, tho' after Judgment on a *Demurrer*, becauſe *Continuances* are merely the Acts of the Court. *Cooper*, *an Attorney*, v. *Younges*, *H.* 6 *G.* 2. *C. B.*

v. c. Barnes 7. A Writ of Error was brought on a Judgment by *Non inform.* ſigned 22d of *December*, by Virtue of a Warrant of Attorney, dated 31ſt of *October* in *Michaelmas* Term, the Roll was filed generally of the ſaid *Michaelmas* Term. Upon which the Plaintiff's Attorney moved in the Treaſury to amend the Record according to the Fact, by writing at the Top of the Roll *In fifteen Days from the Day of St.* Martin *in the 9th Year*, &c. to prevent the Judgment from having Relation to the Eſſoin-Day of the

 firſt

first Return, which would have vitiated it, the Day laid in the Declaration on a *Mutuatus* being the 31ſt of *October* (the Date of the Warrant of Attorney); and on hearing both Sides the Amendment was ordered. *Deacon* v. *Vivian*, *E.* 9 *G.* 2. Com. Pleas.

Motion to amend an Iſſue Roll by ſtriking out the Award of the *Venire Facias* by *Decem Tales*, and awarding the common *Venire Facias*; denied there being nothing to amend by. *Cartwright* v. *Gardiner*, *E.* 9 *G.* 2. *C. B.* C. B. Baines

Motion to amend a Judgment Roll, by ſtriking out *that the Plaintiff ought to recover*, and inſerting that *the Plaintiff do recover*, after a Writ of Error brought, and *In nullo eſt erra'* pleaded, granted on Payment of Coſts, provided the Defendant do not further proſecute his Writ of Error; but if he proceeds in Error, without Coſts. *Foſter* v. *Blackwell*, *E.* 10 *G.* 2. *C. B.* C. B. Baines

Of Scire Facias.

The Court ordered a *Sci. Fac.* againſt Bail, and all the Proceedings upon it to be amended by the Record in the original Action, by inſerting the Defendant's Addition of *Merchant* inſtead of *Mercer*, after Iſſue joined upon *Nul tiel Record*. *Swetland* v. *Beeſley and Brown*, *H.* 7 *G.* 2. *C. B.* C. B. Baines

Coſts.

Costs.

Of Taxing Bills of Costs.

V. C. Barnes 118. THE Plaintiff's Attorney's Bill amounted to 75 *l.* 15 *s.* 7 *d.* and the Deductions on taxing the Bill were 7 *l.* 3 *s.* 10 *d.* *Per Cur.* The Plaintiff must pay his Attorney the Costs of Taxation, a 6th Part not being taken off. *Mic.* 6 *G.* 2. *C. B.*

V. C. Barnes 119. The Court denied a Motion to tax a Bill upon paying the Money into Court, in an Action by an Executor upon a Bill for Fees, for Business done by the Testator. *Mic.* 7 *G.* 2. *C B.*

V. C. Barnes 119. Upon an Affidavit that the Plaintiff was dead, a Rule *nisi* to tax the Plaintiff's Bill was discharged. *Mic.* 7 *G.* 2. *C. B.*

V. C. Barnes 124. Motion for a Bill of Costs, whereon an Action was brought to be taxed after Judgment by Default, and a Writ of Inquiry executed, denied; for the Damages are now ascertained, Defendant might have applied any Time before. *E.* 11 *G.* 2. *C. B.*

V. C. Barnes 126. Motion for Defendant's late Attorney to deliver a Bill of Costs, and that it might be taxed. *Per Cur.* These are distinct Motions, let him shew Cause why he should not deliver the Bill, and that being done Defendant may apply for a Taxation. *Tr.* 13 *G.* 2. *C. B.*

All Affidavits to be produced to be read or made use of before any of the Prothonotaries of this Court, upon Taxation of Cost and other Matters to them referred, to be filed by the Secondaries in the respective Prothonotaries Offices. *Per Reg. Cur. Hil.* 11 *G.* 2.

Of paying Coſts.

In *Hil.* 6 *G.* 2. *Zouch* v. *Bell*, *C. B.* a Rule *Nisi* for Coſts for not executing a Writ of Inquiry according to Notice was diſcharged, being a Thing never before done. *But now by a Rule of this Court made Trin.* 13 *G* 2. The Defendant ſhall be intitled to Coſts, if the Plaintiff don't execute his Writ of Inquiry purſuant to Notice, or countermand the ſame in due Time. *C. B. Barnes* 118.

In an Action for Money had and received by the Defendant for the Uſe of the Plaintiff as Executor, the Plaintiff at the Trial being nonſuited, the Court ordered him to pay the Defendant's Coſts, becauſe the Action might have been brought in his own Right. (Judge *Denton* cited *Midley* v. *York*, *Mic.* 6 *A.* in *B. R.*) *Bangs Executor* v. *Bangs*, *Hil.* 6 *G.* 2. *C. B.* *C. B. Barnes* 119.

The Court ordered the Coſts taxed upon the Common Rule by Conſent in Ejectment to be paid to the Repreſentative of the Leſſor of the Plaintiff, who died after the Trial. *Hil.* 7 *G.* 2. *C. B.* *C. B. Barnes* 110.

In an Action of Treſpaſs for entring the Plaintiff's Cloſe, and driving and chaſing his Sheep. Plaintiff did not recover 40*s.* Damages; yet *per Cur.* In Caſe of an *Aſportavit*, or if any Injury be done to a perſonal Chattel, the Plaintiff muſt have full Coſts. *E.* 7 *G.* 2. *C. B.* *C. B. Barnes* 119.

In an Action of Treſpaſs and Aſſault, and tearing the Plaintiff's Clothes, 2 general Verdict was found for the Plaintiff, but the Damages *C. B. Barnes* 120.

Com. Pleas. were under 40*s.* and the Judge before whom the Cause was tried had not certified, yet the Judges in the Treasury were of Opinion, that the Plaintiff ought to have his full Costs: But Sir *Geo. Cooke* doubted it. *M.* 8 *Geo.* 2. *C. B.*

B. C. Barnes 120. The Defendant having pleaded in Abatement, the Plaintiff confessed the Truth of the Plea, and entered a *Nil capiat per breve:* Upon hearing the Attornies on both Sides, the Judges in the Treasury held, that the Plaintiff should not pay Costs. *Mich.* 8 *Geo.* 2. *C. B.* The Cases cited were *Salk.* 194. *Garland* v. *Extend*, *Mich.* 2 *Annæ*; *Thomas* v. *Lloyd*, 10 *Gul.* 3. in *B. R.*

B. C. Barnes 120. The Court, having determined a Point in Law reserved at the Trial in Favour of the Defendant who afterwards died, was moved that the Plaintiff should pay Costs to the Defendant's Executrix, by Virtue of the Rule by Consent made at *Nisi prius*, and since made a Rule of Court, which was ordered because the Duty arose in the Defendant's Life-time. *H.* 8 *Geo.* 2. *C. B.* Case cited *Goodright* v. *Holton*, *H.* 7 *Geo.* 2.

B. C. Barnes 121. In Trespass for breaking and entring Plaintiff's House, and breaking his Cellar-Door; Verdict for Plaintiff, as to the Breaking the Door; Damages 6 *d.* Residue for Defendants. *Per Cur':* The Plaintiff to have no more Costs than Damages; the Door was fixed to the House, and no personal Chattel. *E.* 8 *Geo.* 2. Cases cited *Dixie* v. *Somerfield*, *H.* 6 *Geo.* 2. *Ullithorne* v. *Kirkhouse*, *E.* 2 *Geo.* 2.

B. C. Barnes 124, 129. In Trespass *Quare clausum fregit*; Defendant pleaded a Justification; Plaintiff made a new Assignment, to which the Defendant pleaded

pleaded Not guilty; Verdict for Plaintiff; Damages under 40 *s.* and no Certificate. *Per Cur'*: Here is no ſpecial Pleading, the new Aſſignment is only to aſcertain the Place; the Plaintiff can have no more Coſts than Damages. *E.* 11 *Geo.* 2. *C. B.* Com. Pleas.

The Opinion of the Twelve Judges upon the Clauſe in the Act of 22 & 23 *of King* Charles *the Second*, cap. 9. *For giving no more Coſts than Damages, delivered at* Serjeants-Inn *in* Chancery-lane, London, *in* Trinity *Term in the twenty-third Year of the ſaid King.*

The Clauſe in the Act.

AND for Prevention of trivial and vexatious Suits in Law, whereby many good ubjects of this Realm have been and are ily undone, contrary to the Intention of an ct made in the forty-third Year of Queen *lizabeth*, for avoiding of infinite Number f ſmall and trivial Suits commenced in the ourts at *Weſtminſter*, Be it farther enacted, r the making the ſaid Law effectual, that om and after the firſt of *May* aforeſaid, in Actions of Treſpaſs, Aſſault and Battery, d other perſonal Actions, wherein the dge at the Trial of the Cauſe ſhall not find d certify under his Hand, upon the Back of e Record, that an Aſſault and Battery was fficiently proved by the Plaintiff againſt

Com. Pleas. the Defendant, or that the Freehold, or Title of the Land mentioned in the Plaintiff's Declaration, was chiefly in Queſtion; the Plaintiff in ſuch Action, in caſe the Jury ſhall find the Damages to be under the Value of forty Shillings, ſhall not recover or obtain more Coſts of Suit than the Damages ſo found ſhall amount unto, and if any more Coſts in any ſuch Action ſhall be awarded, the Judgment ſhall be void, and the Defendant is hereby acquitted of and from the ſame, and may have his Action againſt the Plaintiff for ſuch vexatious Suits, and recover his Damages and Coſts of ſuch his Suit in any of the ſaid Courts of Record.

The Judges Opinion.

Firſt, That Actions of Debt are not within this Clauſe.

2. That no Action upon the Caſe *ſur aſſumpſit*, Account, or other perſonal Actions (other than for Aſſault and Battery, or voluntary Treſpaſs, where the Title comes not nor cannot come in Queſtion) is within this Clauſe.

3. That the Judge is bound to certify on Actions of Aſſault and Battery, where the Jury ſhall find Damages to ten Shillings, or leſs, that the Battery is ſufficiently proved otherwiſe the Plaintiff is to have no more Coſts than Damages.

4. That if the Defendant pleads *Son aſſault Demeſne*, and the Jury find it *Ad damnum querentis*, the Certificate muſt be, that the Jury

Jury find by the Defendant's Plea, that the Battery is admitted and sufficiently proved. Com. Pleas.

5. That if an Assault be proved, and no Battery, there needs no Certificate.

6. That in Case of a Certificate, where it is requisite, it must be indorsed on the Panel or *Nomina Juratorum* with the Judge's Hand to it, immediately after the Trial, and the Certificate is to be, that the Battery is fully proved.

7. That the Clause extends only where Damages are to be recovered, and not in Debt, because Debt is not within the Words, (altho' the Debt be under forty Shillings it is all one, it needs no Certificate.)

8. That in all Actions for a Common, a Way, a Nusance, Lights, Water-Courses, *&c.* the Judges may certify, because the Freehold may come in Question, although it be not mentioned in the Declaration.

9. That the Clause extends not to Judgments by Default, or Writs of Inquiry of Damages.

Mathew Hale,
Tho. Twysden,
Ric. Raynsford,
Will. Moreton,
Jo. Vaughan,
Tho. Tyrrill,
Jo. Archer,
Will. Wylde,
Edw. Turner,
Hugh Wyndham,
Chr. Turner,
T. Littleton.

Of paſſing Fines.

Before Commiſſioners.

IF your Fine be to be taken in the Country, you muſt firſt draw up Inſtructions for the Curſitor to make a *Dedimus poteſtatem*, and give him the Commiſſioners Names at the Bottom, which may be after this Manner:

Lincolnſhire, ſſ. **Command** *A. B.* Gentleman, and *E.* his Wife, that juſtly, *&c.* they perform to *C. D.* the Covenant, *&c.* of one Meſſuage, one Garden, *&c.* with the Appurtenances in *F.* and unleſs, *&c.*

J. S. Knight.
De. po. directed to *T. B.*, *R. O.*, *H. Y.* and *G. W.* Gentlemen.

You muſt carry this to the Curſitor of the County, and beſpeak a *Dedimus*, and you may at the ſame Time beſpeak and have a Writ of *Covenant*; but that is uſually let alone until the *Dedimus* is returned.

But if it is to be a Fine of the preceding Term, your beſt Way is to have a Writ of *Covenant* at the ſame Time; for if the *Dedimus* is not taken and returned in Time, you will be under the Neceſſity and Expence of

of petitioning the Maſter of the Rolls for a Writ of *Covenant*, returnable the preceding Term. Com. Pleas.

You muſt ſend down your *Dedimus* to your Client, with an Indorſement thereon in this Manner, *The Execution of this Commiſſion appears in a certain Schedule to this Commiſſion annexed*; and the Commiſſioners ſubſcribe it. You muſt alſo write the *Præcipe* over upon Parchment, and under that the Concord, as the Nature of the Thing requires; with a *Caption*, and the Cognizor, or Cognizors, muſt ſubſcribe the Concord, and the Commiſſioners the *Caption*.

When the *Dedimus* is returned, then Affidavit by a Commiſſioner is made before a Judge, *That he knew the Parties, that they were at Age, and of good Underſtanding*; and if a married Woman Cogniſor, *That ſhe was examined apart, and conſented*; then the Judge's Clerk writes on the *Caption*, *Upon the Oath of* A. B. *one of the Commiſſioners of the due Execution of this Fine, let it paſs*. But if any Interlineations be made in the Fine or *Caption*, let the Judge's Clerk take Notice thereof, otherwiſe it will not paſs the Offices.

This *Allocatur* is by a Judge of the *Common Pleas*; he is paid four Shillings. It is uſual to beſpeak the Writ of *Covenant* (for which you pay ſeven Shillings and Six-pence) of the Curſitor, (by leaving the *Dedimus* and *Caption* with him,) which Writ of *Covenant* you muſt carry to the Alienation-Office, to be compounded.

Com. Pleas. After you have compounded it, carry it back to the Curſitor, and he will mark how much for the King's Fine.

Next you muſt carry your Writ of *Covenant* to be returned at the Return-Office in Prothonotary *Borret's* Office, for which you pay one Shilling and Six-pence; and if it be in *London* or *Middleſex*, you muſt carry him a Note of the Parcels, Buttals, Signs and Tenants Names.

Then next you muſt make up a Warrant of Attorney for it upon a Piece of Parchment, after this Manner:

Michaelmas the 14th of King *George* the Second.

Lincolnſhire, to wit, *C. D.* appoints in his Stead *D. R.* his Attorney, to proſecute a Writ of Covenant againſt *A. B.* Gentleman, and *E.* his Wife, of Lands and Tenements in *F.* &c.

Power.

Then you muſt carry the Warrant of Attorney and Covenant to the Clerk of the Warrants, who will file your Warrant, and ſign your Writ of Covenant for four Pence.

Then you muſt annex your *Dedimus* and *Caption* to it, and carry it to the *Cuſtos brevium* to indorſe the Proclamation upon it, for which you pay three Shillings and eight Pence.

From

From whence you carry them, as annexed, to the King's Silver-Office in the *Temple*, to be entered. You pay one Shilling and eight Pence. Com. Pleas.

Until it was entered in this Office, it was not formerly accounted a Fine in Law; but now, by a late Resolution, it is deemed a Fine in Law from the *Caption*.

From the Silver-Office you must carry it, as annexed, to the Chirographer's Office in the *Temple*, for the Indentures to be made upon it, where it is left on Record, and the Indentures you must give or send to your Client. Thus it is perfected.

If your *Caption* is to be taken before the Chief Justice at his Chambers, as it well may: If the Parties be in Town, then you must write a *Præcipe* and Concord on Parchment, and another on Paper, to which the Parties must subscribe their Names; then they must go with you to the Chief Justice, and acknowledge it before him, and you must leave the proper *Præcipe* with the Judge's Clerk. *Before the Chief Justice.*

Next you may bespeak your Writ of *Covenant* of the Cursitor, and proceed through the Alienation-Office, Return-Office, Warrant of Attorney-Office, *Custos brevium*, King's Silver, and Chirographer's Office, as before, annexing the *Caption* to the *Covenant* before you carry them to the *Custos brevium*.

If your Acknowledgment be before another Judge at the Assizes, as it may, you leave the *Præcipe* and *Concord* with the Judge's Clerk; and when the Judge comes to Town, you *At the Assizes.*

Com. Pleas. you muſt beſpeak of the Curſitor of the County a general *Dedimus*, to be directed to that Judge, and his Clerk will return the Subſtance of the *Concord* on the Back of the *Dedimus*.

Then you muſt get a Writ of *Covenant*, and compound it, as before, and paſs it through all the Offices, as before, with the *Dedimus* annexed, before you go to the *Cuſtos brevium*, &c.

A Fine from one to one, of a Meſſuage, &c.

Præcipe. *Somerſetſhire*, to wit, **Command** *A. B.* that juſtly, &c. he perform the Covenant, &c. to *C. D.* of one Meſſuage, two Gardens, twenty Acres of Land, ten Acres of Meadow, and ten Acres of Paſture, with the Appurtenances in *F.* and unleſs, &c.

Con. ord. **And** ſuch is the Agreement, to wit, That the aforeſaid *A.* hath ackhowledged the aforeſaid Tenements with the Appurtenances, to be the Right of him the ſaid *C.* as thoſe which the ſame *C.* hath of the Giſt of the aforeſaid *A.* and thoſe for himſelf and his Heirs he hath releaſed and quitted Claim to the aforeſaid *C.* and his Heirs for ever. **And** further the ſame *A.* hath granted for himſelf and his Heirs, that he will warrant to the aforeſaid *C.* and his Heirs, the aforeſaid Tenements with the Appurte-

nances

nances, againſt the ſaid *A.* and his Heirs for ever. And for this, *&c.* Com. Pleas.

Taken and acknowledged —— Day of —— in the —— Year of the Reign of the Lord *George* the Second, now King of *Great Britain*, &c. and in the Year of our Lord One thouſand ſeven hundred and —— before ——

By one to two of a Meſſuage, Lands and Common.

Somerſetſhire, to wit, **Command** *A. B.* That juſtly, *&c.* he perform to *C. D.* and *E. F.* the Covenant, *&c.* of three Meſſuages, five Gardens, one hundred Acres of Land, two hundred Acres of Wood, and Common of Paſture for all Manner of Cattle, with the Appurtenances in *G.* and *H.* and unleſs, *&c.*

And ſuch is the Agreement, to wit, That the aforeſaid *A.* hath acknowledged the aforeſaid Tenements and Common, with the Appurtenances, to be the Right of the ſaid *C.* as thoſe which the ſame *C.* and *E.* have of the Gift of the aforeſaid *A.* and thoſe for himſelf and his Heirs he hath remiſed and quitted claim to the aforeſaid *C.* and *E.* and to the Heirs of the ſaid *C.* for ever. **And** further the ſame *A.* hath granted for himſelf and his Heirs, that they will warrant to the aforeſaid

Com. Pleas. ſaid *C.* and *E.* and to the Heirs of the ſaid *C.* the Tenements and Common aforeſaid with the Appurtenances, againſt the ſaid *A.* and his Heirs for ever. And for this, *&c.*

Taken and acknowledged the —— Day of —— in the —— Year of the Reign of the Lord *George* the Second, now King of *Great Britain*, *&c.* and in the Year of our Lord One thouſand ſeven hundred and —— before ——

Note; Though there be diverſe Cognizees, yet the Right ſhall be limited to one of them only, and the Eſtate limited to his Heirs only whoſe Right it is acknowledged to be. But if the Cognizees be joint Purchaſers, it is ſaid *their Heirs*, inſtead of *the Heirs of one of them.*

If a Fine be levied by two, *and Heirs*, without the Word *Their*, it is ſaid this will be void for Uncertainty in a Fine, as in a Deed.

From Husband and Wife, of Husband's Lands.

Somerſetſhire, to wit, **Command** *A. B.* and *C. D.* his Wife, that juſtly, *&c.* they perform to *D. E.* the Covenant, *&c.* of, (*&c.*) *as before.*

And ſuch is the Agreement, that the aforeſaid *A.* and *C.* hath acknowledged the Tenements

Tenements aforeſaid with the Appurtenances, to be the Right of the ſaid *D.* as thoſe which the ſame *D.* hath of the Gift of the aforeſaid *A.* and *C.* and thoſe they have remiſed and quit-claimed from them the ſaid *A.* and *C.* and from the Heirs of the ſaid *A.* * to the aforeſaid *D.* and his Heirs for ever. **And further,** the ſame *A.* and *C.* have granted for themſelves and the Heirs of the ſaid *A.* that they will warrant to the aforeſaid *D.* and his Heirs, the Tenements aforeſaid with the Appurtenances, againſt them the ſaid *A.* and *C.* and the Heirs of him *A.* for ever. And for this, *&c.* Com. Pleas.

* *If you know not whether they are the Lands of the Husband or Wife, then you ſay,* Their Heirs.

Taken and acknowledged the —— Day of —— in the —— Year of the Reign of the Lord *George* the Second, now King of *Great Britain*, *&c.* and in the Year of our Lord One thouſand ſeven hundred and —— before ——.

From the Husband and Wife, of the Wife's Lands.

Wiltſhire, to wit, **Command** *A. B.* and *C.* his Wife, that juſtly, *&c.* they perform to *D. E.* the Covenant, *&c.* of, *&c. as before, naming the Parcels.*

And ſuch is the Agreement, that the aforeſaid *A.* and *C.* have acknowledged the Tenements

Com. Pleas.

Tenements aforeſaid with the Appurtenances, to be the Right of the ſaid *D.* as thoſe which the ſame *D.* hath of the Gift of the aforeſaid *A.* and *C.* and thoſe they have remiſed and quit-claimed from them the ſaid *A.* and *C.* and the Heirs of the ſaid *C.* to the aforeſaid *D.* and his Heirs for ever. **And further,** the aforeſaid *A.* and *C.* have granted for themſelves and the Heirs of the ſaid *C.* that they will warrant to the aforeſaid *D.* and his Heirs the Tenements aforeſaid with the Appurtenances, againſt the aforeſaid *A.* and *C.* and the Heirs of the ſaid *C.* for ever. And for this, *&c.*

Note; To make the Warranties ſure in Caſe of a Man and Wife, do firſt make a Warranty from the Husband, as before; and then add a Warranty to bar the Wife's Heirs, thus, (*to wit*,)

And further, That the ſame *A.* and *C.* have granted for themſelves and the Heirs of the ſaid *C.* that they will warrant the Tenements aforeſaid with the Appurtenances, to the aforeſaid *D.* and his Heirs, againſt them the ſaid *A.* and *C.* and the Heirs of the ſaid *C.* for ever. And for this, *&c.*

When a Fine is from divers, the Fee is ſuppoſed to be in one of them only, if it be ſo, and the Releaſe and Warranty from him.

But generally, where there are divers Cognizors, the Releaſe is from them and their Heirs, as thus:

From

From Three to Two.

And ſuch is the Agreement, to wit, That the aforeſaid *A. B.* and *C.* have acknowledged the Tenements aforeſaid, with the Appurtenances, to be the Right of the ſaid *D.* as thoſe which the ſame *D.* and *E.* have of the Gift of the aforeſaid *A. B.* and *C.* and thoſe they have releaſed, and quit-claimed from them the ſaid *A. B.* and *C.* and their Heirs to the aforeſaid *D.* and *E.* and the Heirs of the ſaid *D.* for ever. And furthermore they, the ſame *A. B.* and *C.* have granted for themſelves and the Heirs of him the ſaid *A.* that they will warrant the Tenements aforeſaid, with the Appurtenances, to the aforeſaid *D.* and *E.* and the Heirs of the ſaid *D.* againſt them the ſaid *A. B.* and *C.* and the Heirs of the ſaid *A.* for ever. And for this, *&c.* *Warranty.*

If the Warranty be general, you may ſay, *Againſt all Men for ever.*

Alſo generally in ſuch Caſes of divers Cognizors, they warrant apart, as thus.

And the ſame *A.* hath granted for himſelf and his Heirs, that he will warrant the Tenements aforeſaid, with the Appurtenances, to the aforeſaid *D.* and *E.* and to the Heirs of the ſaid *D.* againſt the aforeſaid *A.* and his Heirs for ever. And moreover the ſame *B.* hath granted for himſelf and his Heirs, that they will warrant the Tenements aforeſaid with the Appurtenances unto the aforeſaid *D.* and *Warranty apart.*

Com. Pleas. *E.* and the Heirs of the ſaid *D.* againſt the aforeſaid *B.* and his Heirs for ever. And alſo the ſame *C.* hath granted for himſelf and his Heirs, that they will warrant the Tenements aforeſaid, with the Appurtenances, unto the aforeſaid *D.* and *E.* and the Heirs of the ſaid *D.* againſt the aforeſaid *C.* and his Heirs for ever. And for this, *&c.*

And ſo of the like by theſe Words, *And likewiſe*; *And moreover*; *And alſo*; *And further*; *And laſtly*, &c. And the like.

Several Purchaſers. *And Note*, That Lands bought of divers Perſons by ſeveral Purchaſers may paſs very well in one Fine, and then the Writ of Covenant muſt be brought by all the Vendees againſt the Vendors; and every Vendor muſt warrant againſt himſelf and his Heirs only

And Note further, That one Concord may be of Lands in ſeveral Counties, and the Fine for Licence of Concords of all extracted intirely; but there muſt be ſeveral Writs of Covenant returnable all at one Day.

And ſo if the Lands lie in a Pariſh that extends into ſeveral Counties, you may ſue out a *Dedimus* from the Curſitor of which of the Counties you pleaſe; but muſt ſet forth what Lands lie in this County, and what in the other.

The Clerks of the Chirographer's Office will demand for an Indenture, with ſingle Warranty three Shillings.

Every other Warranty Sixpence. For a *Poſt Terminum* Sixpence.

For a Warranty, (though not expreſſed,) if there be ſo many Cognizors as would make one,

two or three more, Sixpence for a Warranty; and ſome of them inſiſt upon Sixpence for Expedition of your Indentures, as if uſually allowed. Com. Pleas.

Of paſſing Recoveries.

DRAW a *Præcipe* upon a Piece of Paper according to the following Directions.

Where the Tenant appears in Perſon, and it is with a ſingle Vouchee.

Somerſetſhire, ſſ. **Command** *A. B.* that juſtly, *&c.* he render to *C. D.* one Meſſuage, (*here put the Parcels*) with the Appurtenances in *E.* which he claims, *&c.*

*The Tenant perſonally vouches (*calls*) to Warranty *Jacob Morland.*

Where the Tenant appears in Perſon, and there is a double Voucher.

Only vary it in the Margin of the *Præcipe* thus:

* The Tenant perſonally vouches (*calls*) to warranty *E. F.* who being alſo preſent further vouches (*calls*) to warranty *Jacob Morland.*

Com. Pleas.

Where the Tenant appears in Perſon, and the Vouchees by Attorney, then thus:

The Tenant perſonally vouches (*calls*) to Warranty *E. F.* (whereupon the Summons is returnable on——) who by Attorney vouches (*calls*) *Jacob Morland.*

Where both the Tenant and Vouchee appear by Attorney thus:

* The Tenant by Attorney vouches (*calls*) to Warranty *E. F.* and *G.* his Wife (whereupon the Summons is returnable——) who alſo by their Attorney further vouches (*calls*) *Jacob Morland.*

If the Parties live in *London*, or ſo near it that they can appear in Perſon, it is much the eaſieſt and cheapeſt Way; but if neither the Tenant nor Vouchee can conveniently appear in Perſon, then there muſt be *Dedimus Poteſtatem*'s ſued out to take the Acknowledgment of their Warrants of Attorney. But where the Vouchee lives in the Country, and his Attorney imploys an Agent in Town, then the uſual Way is to make the Country Attorney Demandant, and the Agent Tenant, ſo the Agent appears in Perſon at *Bar*, and then there muſt only be a *Dedimus Pot.* for the Vouchee.

Who to make Demandant and Tenant in Agency.

How

How to sue out a Dedimus Potestatem.

You must make out a *Præcipe* for the Cursitor on Paper, and in the same Manner as before-mentioned, only adding the Commissioners Names thus:

Sir *O. B.* Knt.

De. Po. directed to { *F. J.* / *J. S.* / *O. P.* / *Q. R.* } Gentlemen.

You pay the Cursitor for this Writ 1 *l.* 5 *s.* 8 *d.*

Then send it down into the Country, and there a Day must be appointed for two at least of your Commissioners to take Acknowledgment of the Warrant of Attorney, which must be written on Parchment, together with a Copy of the *Præcipe* in this Form.

Somersetshire, ss. **Command** *A. B.* that justly, *&c.* he render to *C. D.* (*the Parcels*) with the Appurtenances in *S.* which he claims, *&c.*

(*You are not to write in the Margin of this, as you do if it were a* Præcipe *at Bar*, &c)

Com. Pleas.

Warrant for the Tenant.

Somerſetſhire, ſſ. A. B. appoints in his ſtead *W. L.* and *J. G.* his Attornies, jointly or ſeverally againſt *C. D.* to gain or loſe in a Plea of Land.

If the Warrant be for the Vouchee, ſay thus:

Warrant for the Vouchee.

Somerſetſhire, ſſ. E. F. and G. his Wife, whom *A. B.* vouches (*calls*) to Warranty, appoints, *&c.* (*as before.*)

The Acknowledgment of the Warrant of Attorney being taken, the Warrant muſt be annexed to the *Dedimus*, and an Indorſement muſt be made on the Back of the *Dedimus* thus:

The Execution of this Writ (or Commiſſion) appears in a certain Schedule hereto annexed.

How to paſs the Recovery at the Bar.

If the Tenant appears in Perſon, give your *Præcipe* to a Serjeant's Clerk, to whom you pay, if it be with a ſingle Vouchee, 6 *s.* with a double Vouchee 8 *s.* with a treble Vouchee 10 *s.* with a quadruple Vouchee 12 *s.* and if by Warrant of Attorney 4 *s.* more; and the Tenant

Tenant being there preſent, ſome of the Serjeants at the Bar will repeat the Count in the Recovery, the Voucher to Warranty, and the Prayer of an Imparlance. Com. Pleas.

Then give the *Præcipe* to one of the Criers of the Court, who will carry it to the Secondary of the Prothonotary, in whoſe Office you intend to enter the Proceedings, and he will enter the *Præcipe* in a Book for that Purpoſe, you pay him 4 *s.* 6 *d.* and if it be by Warrant of Attorney 2 *s.* more, and he marks the *Præcipe* thus: *At Bar.* It is uſual to give the Crier 6 *d.*

How to ſue out the Writ of Entry.

Having paſſed your *Præcipe* at the Bar, if both the Tenant and Vouchee appeared in Perſon, you muſt make a Copy of it for the Curſitor to make out the Writ of Entry by; but if you had a *Dedimus Poteſtatem* as beforementioned, you only carry that to him, with the Warrant of Attorney annexed, for theſe contain ſufficient Inſtructions, both for the Writ of Entry and the *Mittimus* and Tranſcript.

You pay the Curſitor for the Writ of Entry 7 *s.* 6 *d.* and more, if very long by Reaſon of a great Number of Parcels.

Com. Pleas.

How to ſue out the Writs of Summons and Seiſin.

Having got your Writ of Entry from the Curſitor you make out the Writs of Summons and Seiſins yourſelf on treble 6 *d.* Stamps thus:

The Form of a Writ of Summons for the firſt Vouchee.

George, (&c.) To the Sheriff of *S.* Greeting: **Summon** by good Summoners (*the Vouchee*) that he be before our Juſtices at *Weſtminſter* (* *the Return*) to warrant to (*the Tenant*) one Meſſuage, *&c.* (*the Parcels*) with the Appurtenances in *D.* which (*the Demandant*) in our Court before our Juſtices at *Weſtminſter*, claims as his Right by our Writ of Entry upon Diſſeiſin in *le poſt* againſt the ſaid (*the Tenant*), and whereupon the ſaid (*the Tenant*) in our ſame Court hath vouched the ſaid (*the Vouchee*) to be ſummoned in your County to warrant againſt the ſaid (*the Demandant*); And have you there the Summoners and this Writ. **Witneſs** Sir *John Willes*, Knt. at *Weſtminſter* the——Day of——in the——Year of our Reign.

Cooke.

* There

* There were formerly nine Returns between the Return of the Writ of Entry and Return of the Writ of *Summons*, and so betwixt one Writ of Summons and another; but by the *Stat.* 17 *Car.* 2. *cap.* 6. they are abridged to five Returns inclusive. For Example, if the Writ of Entry be returnable in three Weeks from *Michaelmas* Day, then the Writ of Summons must be returnable on the Octave of St. *Martin.* If the Writ of Entry be returnable in one Month from *Michaelmas* Day, then the Summons in fifteen Days from the Day of St. *Martin.* If the Writ of Entry be on the Morrow of *All-Souls*, then the Summons on the Octave of St. *Hillary*, accounting the Return of the Writ of Entry for one, and then the 5th Return is the Return of the Summons, and so it is betwixt one Summons and another. Com. Plea.

The first Summons must be tested the 4th Day inclusive from (*i.e.* the Appearance Day of) the Return of the Writ of Entry, and so must a second Summons from the Return of the first.

The Form of a Summons for the second Vouchee.

George, (&c.) **To**, (&c.) Summon by good Summoners (*the 2d Vouchee*), that he be before our Justices at *Westminster*, (*the 5th Return inclusive from the 1st Summons*) to warrant to (*the first Vouchee*) [whom (*the Tenant*) heretofore in our Court before our Justices at *Westminster*, did vouch to Warranty] one Messuage, &c. (*the Parcels*) with the Appurte-

Com. Pleas. nances in *D.* which (*the Demandant*) in our ſaid Court claimeth as his Right by our Writ of Entry upon Diſſeiſin in *le poſt* againſt the ſaid (*the Tenant,*) and whereupon the ſaid (*the 1ſt Vouchee*) in our ſaid Court hath further vouched the ſaid (*the 2d Vouchee*) to be ſummoned in your County, to warrant againſt the ſaid (*the Demandant*); And have you there the Summoners and this Writ. **Witneſs** Sir *John Willes*, Knt. at *Weſtminſter*, the (*The Appearance Day of, or the 4th Day inclusive from, the Return of the 1ſt Summons,*) Day of—— in the—— Year of our Reign.

Cooke.

The Writ of Seiſin.

George, (&c.) **To**, (&c.) **Know** you that (*the Demandant*) in our Court before our Juſtices at *Weſtminſter*, hath recovered his Seiſin againſt (*the Tenant*) of one, *&c.* (*the Parcels*) with the Appurtenances in *D.* by our Writ of Entry upon Diſſeiſin in *le poſt*. **Therefore** we command you that without Delay you cauſe full Seiſin of the Tenements (*and Commons*) aforeſaid, with the Appurtenances to be delivered to the ſaid (*the Demandant*), and in what Manner you ſhall have executed this our Precept, do you make appear to our Juſtices at *Weſtminſter* forthwith. (*It muſt be returnable at leaſt 15 Days after the Teſte Day of the Return of the Writ of Entry; but if the Entry be returnable towards the latter End of the Term, ſo that there are not 15 Days between the Return of*

of the Entry and the laſt Return of the Term, then the Seiſin muſt be returnable forthwith; but if the Entry be returnable the laſt Return of the Term, then the Seiſin muſt be returnable the firſt Return of the ſubſequent Term.) And have you there this Writ. **Witneſs** Sir *John Willes*, Knt. at *Weſtminſter*, the (*the 4th Day incluſive from the Return of the Writ of Entry, when there is no Summons; but if there is a Summons the 4th Day incluſive from the Return of it, and where there are two Summons's, then from the Return of the 2d Summons,*) in the —— Year of our Reign. Com. Pleas.

Cooke.

You having made out the Summons and Seiſin, get them ſigned by the Prothonotary, you don't pay him any Thing then, but afterwards when he ſigns the Exemplification: And then ſealed, for which you pay 7 *d.* a-piece.

Of paſſing the Writ of Entry, and of returning it, and the Summons and Seiſin.

When you have got the Writ of Entry from the Curſitor, carry it to the Alienation Office to be compounded by the Commiſſioners, who are there for that Purpoſe from 9 to 10 in the Morning in Term-Time, and for one Week after every Term: And when compounded you pay the Compoſition Money to the Receiver of the King's Fines, who likewiſe is there:

And

Com. Pleas. And after that you must leave it longer in the Office for it to be entred, and for the Commissioners to indorse their Names on the Back of it.

You pay to the Clerk of that Office in Term 1 *s.* 6 *d.* and to the Receiver 6 *d.* If out of Term while the Commissioners are at the Office 2 *s.* and after that 2 *s.* 6 *d.* to the Clerk, and 6 *d.* to the Receiver: Then pin the *Entry*, *Summons* and *Seisin* together, and leave them at the Return Office in Mr. Prothonotary *Borret's* Office to be returned; but it is usual for Readiness to indorse the Return of the Seisin (except the Sheriff's Name) before you carry it there. You pay 1 *s.* 6 *d.* for each.

The Return of the Entry.

Pledges of Prosecution { *John Doe*, *Richard Roe.*

The Summoners { *John Denn*, *Richard Fenn.*

Return of the Summons.

Summoners { *John Denn*, *Richard Fenn.*

Return

Return of the Seiſin.

By Virtue of this Writ to me directed on the—— (*any reaſonable Day between the Teſte and Return, ſo it be not on a* Sunday, *allowing that a Man may ride from* Weſtminſter *to the Place where the Premiſſes are, and back again by that Time, which may be ſuppoſed to be done in ſix Days, if in any Part of* England.) Day of —in the Year within written, I cauſed full Seiſin of the Tenements (and Common) within ſpecified, with the Appurtenances, to be delivered to the within named (*the Demandant*) as within I am commanded.

J. L. Eſq; Sheriff.

When you have got theſe Writs from the Return-Office, carry the Entry to the Attorney General's Clerk, and he will get the Attorney General's Hand to it, for which you pay 10*s.*

Of drawing Recoveries, and entring them on the Rolls.

You may draw your Recovery, enter it on the Rolls, and exemplify it either during the Time the Writs are paſſing through the Offices, or afterwards, as you ſee convenient.

When you have made a Draught of it, your beſt Way is to get the Prothonotary, or one of his Clerks, to peruſe it to avoid Miſtakes.

The

Com. Pleas.

The Entry of a Recovery, where the Tenant appears in Perſon, and the Vouchee on Summons; and a Note, ſhewing the Variation when the Vouchee appears in Perſon.

Vide *the Method of Entring the* Mittimus *and Tranſcript on the Roll,* poſtea.

(a) *The Beginning of the Recovery-Roll when there is a Summons. The Count.*

(a) ELſewhere, as it appears in the Term of —— laſt paſt, upon the CCC Roll it is thus contained: (b) *Somerſetſhire, ſſ. A. B. (the Demandant)* in his proper Perſon demandeth againſt *C. D. (the Tenant)* one Meſſuage, *(reciting the Parcels)* with the Appurtenances in *D.* as his Right and Inheritance, and into which the ſame *C.* hath not Entry but after the Diſſeiſin, which *Hugh Hunt* thereof unjuſtly and without Judgment hath made to the ſaid *A.* within thirty Years, *&c.* and whereupon he ſaith, that he was ſeiſed of the Tenements aforeſaid with the Appurtenances in his Demeſne as of Fee and Right, in Time of Peace, in the Time of our Lord the King that now is, by taking the Profits thereof to the Value, *&c.* and into which, *&c.* And thereof he bringeth Suit, *&c.*

(b) *Beginning of Summons-Roll or of Recovery-Roll where no Summons.*

The Tenant vouches the firſt Vouchee.

And the ſaid *C.* in his proper Perſon cometh and defendeth his Right, when, *&c.* and there-

thereupon voucheth to (a) Warranty *W. W.* and *M.* his Wife, ſummoned in the County aforeſaid: Let him have them here by the Aid of the Court, *&c.* The ſame Day is given here to the Parties aforeſaid, *&c.* † And upon this the ſaid *C.* appointeth in his Stead *G. H.* and *J. K.* his Attornies, jointly or ſeverally, againſt the ſaid *A.* to gain or loſe of the Plea aforeſaid, *&c.* * At which Day here cometh as well the ſaid *A.* in his proper Perſon, as the ſaid *C.* by the ſaid *G. H.* his Attorney; and the ſaid *W.* and *M.* being ſummoned, *&c.* likewiſe come by *T. T.* their Attorney, and freely warrant the Tenements aforeſaid with the Appurtenances to the ſaid *C. &c.* And hereupon the ſaid *A.* demandeth againſt the aforeſaid *W.* and *M.* Tenants by their own Warranty, the Tenements aforeſaid with the Appurtenances, in Manner aforeſaid, *&c.* and whereupon he ſaith, that he was ſeiſed of the Tenements aforeſaid with the Appurtenances, in his Demeſne as of Fee and Right in Time of Peace, in the Time of our Lord the King that now is, by taking the Profits thereof to the Value, *&c.* and into which, *&c.* And thereof he bringeth Suit, *&c.*

Com. Pleas.

Summons.

Warrant of Attorney.

† *Small Hand on Summons-Roll.*

* *End of Summons-Roll.*

Count againſt him.

And the ſaid *W.* and *M.* Tenants by their own Warranty, defend their Right, when, *&c.* and thereupon they further vouch to

First Vouchee further vouches the common Vouchee.

(a) *If there be no Summons, then ſay,* voucheth to Warranty *W. W.* (*the Vouchee*) who is preſent here in Court in his proper Perſon, and freely warranteth the Tenements aforeſaid with the Appurtenances to the ſaid *C. &c.* and hereupon the ſaid *A.*

Com. Pleas. vouch to Warranty *Jacob Morland*, who is preſent here in Court in his proper Perſon, and freely warranteth to them the Tenements aforeſaid with the Appurtenances, *&c.*

Count againſt him. And hereupon the ſaid *A.* demandeth againſt him the ſaid *Jacob*, Tenant by his own Warranty, the Tenements aforeſaid with the Appurtenances, in Manner aforeſaid, *&c.* and whereupon he ſaith, that he was ſeiſed of the Tenements aforeſaid with the Appurtenances in his Demeſne as of Fee and Right in Time of Peace, in the Time of our Lord the King that now is, by taking the Profits thereof to the Value, *&c.* and into which, *&c.* And thereof he bringeth Suit, *&c.*

Plea of the common Vouchee. And the ſaid *Jacob*, Tenant by his own Warranty, defendeth his Right, when, *&c.* and ſaith, that the ſaid *Hugh* did not diſſeiſe the ſaid *A.* of the Tenements aforeſaid with the Appurtenances, as the ſaid *A.* by his Writ and Declaration above doth ſuppoſe; And of this he puts himſelf upon the Country, *&c.*

Imparlance. And the ſaid *A.* thereupon craveth Leave to imparl; and he hath it, *&c.* And afterwards the ſaid *A.* cometh again here into Court in this ſame Term in his proper Perſon, and the ſaid *Jacob*, although ſolemnly called, cometh not again, but departed in Contempt

Judgment. of the Court, and maketh Default; Therefore it is adjudged, that the ſaid *A.* do recover his Seiſin againſt the ſaid *C.* of the Tenements aforeſaid with the Appurtenances; And that the ſaid *C.* have of the Land of the aforeſaid *W.* and *M.* to the Value, *&c.* And furthermore, that the ſaid *W.* and *M.* have of the

the Land of the ſaid *Jacob* to the Value, *&c.* And the ſaid *Jacob* in Mercy, *&c.* * And hereupon the ſaid *A.* prays a Writ of the Lord the King, to be directed to the Sheriff of the County aforeſaid, to cauſe full Seiſin of the Tenements aforeſaid with the Appurtenances to be delivered to him; and it is granted to him, returnable here † forthwith, *&c.* ‡ Afterwards, that is to ſay, the —— Day of —— in this ſame Term, the ſaid *A.* cometh here into Court in his proper Perſon, and the Sheriff, namely, *R. S.* Eſq; now returneth, that he, by Virtue of the aforeſaid *Writ to him directed*, on the —— Day of the ſame Month of —— did cauſe full Seiſin of the Tenements aforeſaid with the Appurtenances, to be delivered to the aforeſaid *A.* as by the ſaid Writ he was commanded, *&c.* §

Com. Pleas.

* *Small Hand to the End of the Roll.*

Award of the Writ of Seiſin and Return.

† Vide *the Writ of Seiſin.*

‡ *Or*, At which Day the ſaid *A. if the Summons is returnable on a common Return.*

§ *Thus far on the Roll.*

The Entry of a Recovery with a ſingle Voucher.

Somerſetſhire, ſſ. *A. B.* (*the Demandant*) in his proper Perſon demandeth againſt *C. D.* (*the Tenant*) *and ſo go on with the Count, as in the laſt precedent to* brings Suit, *&c.*

And the ſaid *C.* in his proper Perſon comes and defends his Right, when, *&c.* And thereupon voucheth to Warranty *Jacob Morland*, who is preſent here in Court in his proper Perſon, and freely warranteth to him the Tenements aforeſaid with the Appurtenances, *&c.* And hereupon the ſaid *(the Demandant)* demandeth againſt the ſaid *Jacob*, Tenant by his

Com. Pleas. his own Warranty, (*and ſo go on with the Count againſt the Common Vouchee, the Plea of the Common Vouchee, and the Imparlance, as in the laſt precedent to the Judgment, and then go on thus in the ſame Line:*) **Therefore** it is adjudged, that the ſaid *A.* do recover his Seiſin againſt the ſaid *C.* of the Tenements aforeſaid with the Appurtenances; and that the ſaid *C.* have of the Land of the ſaid *Jacob* to the Value, *&c.* And the ſaid *Jacob* in Mercy, *&c.* And hereupon, (*&c. as before to*) Commanded, *&c.*

A Recovery with a treble Voucher.

It varies from the firſt Precedent only in this, inſtead of the firſt Vouchee calling the Common Vouchee to Warranty, he calls the other Vouchee thus:

—— And the ſaid *W.* and *M.* (*his Wife*) Tenants by their own Warranty, defend their Right, when, *&c.* And thereupon they further vouch to Warranty *J. S. Gentleman*, (*the ſecond Vouchee*) ſummoned in the County aforeſaid; let them have him here, (*the Return*) by the Aid of the Court, *&c.* The ſame Day is given here as well to the ſaid *A.* and *C.* as to the ſaid *W.* and *M.* Tenants by their Warranty, *&c.* At which Day here comes as well the ſaid *A. B.* in his proper Perſon, as the ſaid *C. D.* and the ſaid *W. W.* and *M.* (*his Wife*) by their Attornies aforeſaid: And the ſaid *J. S.* being ſummoned, *&c.* cometh likewiſe by *K. L.* his Attorney, and freely

warrants the Tenements aforesaid with the Appurtenances to the said *W.* and *M.* *&c.* And thereupon the said *A.* demandeth against the said *J.* (*who vouches the common Vouchee, as* W. W. &c. *the first Vouchee did in the first Precedent, and so proceed till you come to the Judgment,*) and that the said *C.* have of the Land of the said *W.* and *M.* to the Value, *&c.* And further, that the said *W.* and *M.* have of the Land of the said *J.* to the Value, *&c.* And furthermore, that the said *J.* have of the Land of the said *Jacob* to the Value, *&c.* And the said *Jacob* in Mercy, *&c.* And hereupon the said *A.* —— (*as in the former.*) Com. Pleas.

If the *Recovery* be with a Quadruple Vouchee, there is no other Difference than by altering it in the same Manner as the last mentioned Precedent is from the first.

Of entring the Mittimus *and Transcript on the Roll.*

Where there is a *Dedimus potestatem* to take the Warrant of Attorney of any of the Parties, then the *Mittimus* and Transcript must be entered on the Recovery-Roll in small Secretary Hand before the Recovery thus:

Our Lord the King hath sent here to his Justices of the Bench his Writ of *Mittimus* closed, (together with the Tenor of his said Majesty's certain Writ of *Dedimus potestatem* for receiving the Warrant of Attorney taken thereon,) in these Words, **George**

Com. Pleas. the Second, (*&c.*) Greeting: The Tenors, (*&c.*) *reciting the* Mittimus *and Tranſcript* verbatim *to the End, then either in exemplifying Hand, or in large Secretary Hand, go on with your Recovery as before, beginning a new Line about an Inch below.*

Of Exemplifying the Recovery.

The Writs and Rolls being ready, you muſt exemplify the Recovery on a 10 *s.* Stamp, in this Manner:

George the Second, (*&c.*) Faith, *&c.* To all to whom theſe our preſent Letters ſhall come, Greeting: Know ye, that amongſt the Pleas of Land inrolled at *Weſtminſter* before Sir *John Willes*, Knt. and his Brethren, our Juſtices of the Bench, of the Term of —— in the —— Year of our Reign, upon the *CCC* Roll it is thus contained: Elſewhere, &c. (*and ſo go on as on the Roll, but not in Paragraphs, to*) as by the ſaid Writ he was commanded, *&c.* (*and then go on in the ſame Line thus:*) All and ſingular which Premiſſes, at the Requeſt of the ſaid *A.* by the Tenor of theſe Preſents, we have commanded to be exemplified. In Teſtimony whereof we have cauſed our Seal, appointed for ſealing Writs in the Bench aforeſaid, to be affixed to theſe Preſents. Witneſs Sir *John Willes*, Knt. at *Weſtminſter* the —— Day of —— in the —— Year of our Reign.

Cooke.

You

You muſt Teſte your Exemplification after the Return of the Writ of Seiſin, if ſuch Writ be returnable in the ſame Term in which Judgment was given; but if the Writ of Seiſin be returnable of a ſubſequent Term, then you Teſte your Exemplification the laſt Day of the Term in which Judgment was given. Com. Pleas.

Then carry this Exemplication, together with the Writ of Entry, *Mittimus* and Tranſcript, and the Writ of Summons and Seiſin, and the Rolls, to the Prothonotary's Office, and there you muſt docquet the Rolls, enter the Recovery on the Remembrance-Roll, and one of the Prothonotary's Clerks will examine the Writs, Entries and Exemplification, and then ſign the Exemplification; you pay him 1 *l.* 5 *s.* for the Entry of the Recovery and filing the Writs, and ſigning the Exemplification, if the Recovery be with a double Voucher by Warrant of Attorney; and only 13 *s.* when a double Voucher in Perſon; and you pay 2 *s.* 2 *d.* at the Seal-Office: But if the Recovery is not paſt of the ſame Term it is of, it muſt be ſigned by the Clerk of the Treaſury, for which you pay 2 *s.* before it muſt be ſealed.

Select PRECEDENTS of DECLARATIONS in the *Common Pleas.*

On a Promiſſory NOTE againſt the Drawer, at the Suit of an Indorſee.

London, to wit, M. *M.* late of *London*, Merchant, was attached to anſwer unto *G. M.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *G.* by *D. R.* his Attorney complains, That whereas the aforeſaid *M.* on the ſecond Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at *London*, to wit, in the Pariſh of the Bleſſed *Mary of the Arches* in the Ward of *Cheap*, made his certain Note in Writing, ſubſcribed with his proper Hand, called a *Promiſſory Note*, bearing Date the ſame Day and Year aboveſaid, and by the ſame Note the ſame *M.* promiſed to pay to one *W. L.* by the Name of Mr. *W. L.* or Order, on or before the fifth Day of *June* then next following, One thouſand three hundred and

sixteen

ſixteen Pounds, Value received: **And whereas** Com. Pleas.
alſo the aforeſaid *W. L.* afterwards, to wit, the firſt Day of *June* in the Year aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, (the aforeſaid Sum of Money in the Note aforeſaid, or any Part thereof, not being paid,) by a certain Indorſement on the Note aforeſaid, ſubſcribed with the proper Hand of the ſaid *W.* ordered the aforeſaid *M.* to pay the aforeſaid Sum of Money in the Note aforeſaid mentioned to the aforeſaid *G.* of which ſaid Indorſement the ſame *M.* afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, had Notice, by Reaſon whereof, and alſo by Force of the Statute in ſuch Caſe made and provided, the aforeſaid *M.* became liable and chargeable to pay to the aforeſaid *G.* the aforeſaid Sum of One thouſand three hundred and ſixteen Pounds, in the Note aforeſaid mentioned, according to the Tenor and Effect of the ſame Note and Indorſement aforeſaid: And the aforeſaid *M.* being ſo liable and chargeable as aforeſaid, afterwards, to wit, the Day and Year laſt aboveſaid, at *L.* aforeſaid in the Pariſh and Ward aforeſaid, in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed the ſame *G.* that he the ſame *M.* would well and truly pay and content to the ſame *G.* the aforeſaid One thouſand three hundred and ſixteen Pounds in the Note aforeſaid mentioned, according to the Tenor and Effect of the ſame Note, and the Indorſement aforeſaid. **And** *Money laid*
whereas alſo the aforeſaid *M.* afterwards, *out and ex-*
to wit, the tenth Day of *June* in the Year *pended.*

Com. Pleas. aboveſaid, at *London* aforeſaid, to wit, in the Pariſh and Ward aforeſaid, was indebted to the ſame *G.* in fifteen hundred Pounds, of lawful Money of this Kingdom, for ſo much Money by the ſaid *G.* for the aforeſaid *M.* and at his ſpecial Inſtance and Requeſt, before that Time paid, laid out and expended; and the aforeſaid *M.* being ſo indebted, in Conſideration thereof afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *G.* that he the ſame *M.* would well and truly pay and content to the ſame *G.* the aforeſaid fifteen hundred Pounds, when he ſhould be thereto afterwards requeſted. *Money lent and borrowed.* And whereas alſo the aforeſaid *M.* afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, was indebted to the ſame *G.* in other fifteen hundred Pounds of like lawful Money, for ſo much Money by him the ſaid *G.* to the ſame *M.* and at the ſpecial Inſtance and Requeſt of the ſaid *M.* before that Time advanced and lent; and the aforeſaid *M.* being ſo indebted the ſame *M.* afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed the ſame *G.* that he the ſame *M.* would well and truly pay and content to the ſame *G.* the aforeſaid fifteen hundred Pounds laſt mentioned, when he ſhould be thereto afterwards requeſted: Nevertheleſs the aforeſaid *M.* not at all regarding his ſeveral

veral Promiſes and Aſſumptions aforeſaid in Com. Pleas.
Form aforeſaid made, but contriving and fraudulently intending the ſame *G.* in this Behalf craftily and ſubtilly to deceive and defraud, the aforeſaid ſeveral Sums of Money, or any Part thereof, to the ſame *G.* he hath not paid, or any wiſe for the ſame contented, (although the aforeſaid *M.* afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, was requeſted ſo to do;) but hath hitherto altogether refuſed, and ſtill doth refuſe to pay, or any wiſe content him for the ſame; Whereupon the ſame *G.* ſaith that he is injured, and damnified to the Value of fifteen hundred Pounds: And thereof he brings his Suit, *&c.*

Upon a Promiſſory Note againſt the Drawer, at the Suit of Partners.

London, to wit, S. *F.* late of *London*, Merchant, was attached to anſwer *S. W. J. W.* and *J. H.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *S. J.* and *J.* by *D. R.* their Attorney, complain, That whereas on the thirty-firſt Day of *October* in the Year of our Lord One thouſand ſeven hundred and thirty-one, and long before, the aforeſaid *S. W.* and Company, to wit, the aforeſaid *J. W.* and *J. H.* were, and ſtill are Partners, to wit, at *London*, in the Pariſh of the Bleſſed *Mary of the Arches* in the Ward of *Cheap*. And whereas alſo the aforeſaid (*Defendant*) after the firſt

Com. Pleas. Day of *May* in the Year of our Lord One thouſand ſeven hundred and five, to wit, the aforeſaid thirty-firſt Day of *October* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at *London* aforeſaid in the Pariſh and Ward aforeſaid, made his certain Note in Writing, ſubſcribed with his proper Hand, called a Promiſſory Note, bearing Date the ſame Day and Year laſt aboveſaid, and then and there delivered the ſame Note to the aforeſaid (*Plaintiffs*) and by the ſame Note the ſame (*Defendant*) promiſed to pay to the aforeſaid (*Plaintiffs*) (by the Name of *S. W.* and Company,) or Bearer, One hundred eighty-ſeven Pounds, upon the eighth Day of *November* next following, Value received; by Reaſon whereof, and alſo by Force of the Statute in ſuch Caſe made and provided, the ſame (*Defendant*) became liable and chargeable to pay the aforeſaid (*Plaintiffs*) the aforeſaid One hundred and eighty-ſeven Pounds in the Note aforeſaid contained, according to the Tenor and Effect of the ſame Note: And the aforeſaid (*Defendant*) being ſo liable and chargeable, afterwards, to wit, the ſame thirty-firſt Day of *October* in the Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiffs*) that he the ſame (*Defendant*) would well and truly pay and ſatisfy to the ſame (*Plaintiffs*) the aforeſaid One hundred and eighty-ſeven Pounds in the Note aforeſaid contained, according to the Tenor and Effect of the ſame Note: Nevertheleſs the ſaid *S. F.* his Promiſe and Aſ-

Note.

ſumption

ſumption aforeſaid, in Form aforeſaid made, Com. Pleas.
not in the leaſt regarding, but contriving and fraudulently intending the ſaid *S. W. J. W.* and *J. H.* in this Behalf craftily and ſubtilly to deceive and defraud, the ſaid ſeveral Sums, or any Part thereof, to the ſaid *S. W. J. W.* or *J. H.* or either of them, hath not paid, or to them or either of them for the ſame contented; (although to do this the ſaid *S. F.* afterwards, and after the Time for Payment of the Money mentioned in the ſaid Note became due, to wit, the ninth Day of *November* aforeſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, by the ſaid *S. W. J. W.* and *J. H.* and often ſince, hath been thereto requeſted,) but the ſame to them, or either of them, to pay, or any wiſe content, he hath altogether refuſed, and ſtill doth refuſe, to the Damage of the ſaid *S. W. J. W.* and *J. H.* two hundred Pounds: And therefore they bring their Suit, *&c.*

Upon a foreign Bill of Exchange proteſted, by an Indorſee againſt the Drawer.

London, to wit, S. *F.* late of *London*, Merchant, was attached to anſwer *G. M.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *G.* by *D. R.* his Attorney complains, That whereas on the twenty-fourth Day of *December* New Stile, (being the thirteenth Day of *December* Old Stile,) in the Year of our Lord One thouſand ſeven hundred and thirty-one, at

Com. Pleas. at *London*, to wit, in the Pariſh of the Bleſſed *Mary of the Arches* in the Ward of *Cheap*, the aforeſaid *S.* then and there reſiding and exerciſing the Art and Buſineſs of a Merchant, according to the Uſe and Cuſtom of Merchants, made a certain Bill of Exchange, bearing Date the ſame Day and Year aboveſaid, ſigned and ſubſcribed with the proper Hand of him the ſaid *S.* and directed his ſame Bill of Exchange to one *J. F.* Merchant at *B.* and by the ſame Bill ſo directed required the ſame *J.* at three Uſances, (to wit, at the End of three Months then next following,) to pay at the Houſe of Monſieur *P. C.* at *Paris*, Two thouſand ſix hundred forty-five Livres of *Tournay* in current Money, to the Order of *M.* the Count of *Sillery*, Value received, from the ſaid *M.* the Count of *Sillery*, in Wines; and afterwards, to wit, the thirty-firſt Day of *January* New Stile, (being the twentieth Day of the ſame Month of *January* Old Stile,) in the Year of our Lord One thouſand ſeven hundred and thirty-one aboveſaid, at *London* aforeſaid, to wit, in the Pariſh and Ward aforeſaid, according to the Cuſtom of Merchants, the ſame *J. F.* accepted and ſubſcribed the aforeſaid Bill ſo made and directed: But the aforeſaid *J. F.* at the End of the aforeſaid three Months, nor at any Time before, or after, hath not hitherto paid or ſatisfied to the aforeſaid Count of *Sillery*, or his Order, the aforeſaid Two thouſand ſix hundred forty-five Livres, nor any Part thereof, although the aforeſaid *J.* at the End of three Months aforeſaid, and often afterwards, by the ſaid Count of *Sillery* was thereto required ſo to do, as he the

the ſame *J.* according to the Form and Effect of the aforeſaid Bill, ought to have paid. Whereupon the aforeſaid Bill of Exchange ſo as aforeſaid made, directed and accepted, on the ninth Day of *April* according to the New Stile, (to wit, the twenty-ninth Day of *March* according to the Old Stile,) in the Year of our Lord One thouſand ſeven hundred and thirty-two, at *London* aforeſaid, to wit, in the Pariſh and Ward aforeſaid, in due Manner, according to the Uſe of Merchants, was proteſted for Want of Payment thereof. And afterwards, and before the Payment of the aforeſaid two thouſand ſix hundred forty-five Livres mentioned in the aforeſaid Bill, or of any Part thereof, to wit, the eighth Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-two aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, the aforeſaid Count of *Sillery*, by an Indorſement ſubſcribed with his proper Hand upon the Bill aforeſaid, ordered the Contents of the aforeſaid Bill to be paid to *W. G.* Value received; and the aforeſaid *W.* afterwards, and before Payment of the aforeſaid Two thouſand ſix hundred forty-five Livres mentioned in the ſaid Bill, or of any Part thereof, to wit, the ſame Day, Year and Place laſt aboveſaid, by another Indorſement ſubſcribed with his proper Hand upon the Bill aforeſaid, ordered the Contents of the Bill aforeſaid, together with the Damages, Intereſt and Coſts, to be paid to the ſaid *G.* by the Name of Mr. *George M.* or his Order, Value received, in Account: Of all which Premiſſes the ſame *S. F.* afterwards, to wit, the ſame Day and Year laſt aboveſaid, at Com. Pleas.

Com. Pleas. at *London* aforeſaid in the Pariſh and Ward aforeſaid, had Notice: By Reaſon of which ſaid Premiſſes the aforeſaid *S. F.* according to the Cuſtom of Merchants became liable and chargeable, and ſtill is liable and chargeable, with the Payment of the aforeſaid Two thouſand ſix hundred and forty-five Livres, with all Damages, Intereſt and Coſts, to the aforeſaid *G.* by Reaſon of the Non-payment thereof, according to the Form and Effect of the Bill of Exchange ſo as aforeſaid accepted, proteſted and indorſed, according to the Uſe and Cuſtom of Merchants. And the ſame *S.* being ſo liable in Conſideration of the Premiſſes, afterwards, to wit, the tenth Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-two Old Stile, at *London* aforeſaid in the Pariſh and Ward aforeſaid, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *G.* that he the ſame *S.* would well and truly pay and ſatisfy to the ſame *G.* the aforeſaid Two thouſand ſix hundred and forty-five Livres, with all Damages, Intereſt and Coſts by Occaſion of the Non-payment thereof as aforeſaid: And the ſame *G.* farther ſaith, That the aforeſaid Two thouſand ſix hundred forty-five Livres in *Tournay* Money are worth in *Britiſh* Money Two hundred and ſixty Pounds; and that the Damages, Intereſt and Coſts of the ſaid *G.* by Reaſon of the Non payment of the aforeſaid Bill of Exchange, amount to fifty Pounds of lawful Money of *Great Britain*, whereof the ſame *G.* on the Day, Year, and at the Place laſt mentioned, gave Notice to the ſame *S.* Yet the ſaid *S.* not in the leaſt regarding, (*&c.*)

Another

Another upon a Foreign Bill of Exchange accepted at the Suit of an Indorſee.

London, to wit, W. *W.* late of *London*, Merchant, was attached to anſwer unto *J. G.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *J.* by *D. R.* his Attorney complains, That whereas on the fourteenth Day of *October* in the Year of our Lord One thouſand ſeven hundred and thirty-one, and long before, and hitherto one *G.W.* was and hath been a Merchant, and a Perſon reſiding and trading in Parts beyond Seas, to wit, at St. *John's* in *Newfoundland*, and one *J. Greenway* and his Company, to wit, one *William Alloway*, *William Methwin*, *Nathaniel Galum*, *John Burridge*, *Samuel Cutherington*, and *George Belch*, and the aforeſaid *William Wood* and *George Gee*, then and for all the ſame Time were, and ſtill are Merchants reſiding and trading within this Kindom, to wit, at *London* aforeſaid, in the Pariſh of the *Bleſſed Mary of the Arches* in the Ward of *Cheap*; and the ſame *Giles* being ſo reſiding and trading, the ſame *Giles* the ſame fourteenth Day of *October* in the Year aboveſaid at St. *John's* aforeſaid, in the Parts beyond Seas aforeſaid, according to the Uſe and Cuſtom of Merchants in ſuch Caſe uſed and approved of from the Time whereof the Memory of Man is not to the contrary, made three Bills of Exchange in Writing for one and the ſame Sum of Money, to wit, the firſt, ſecond,

Com. Pleas. cond, and third Bill of Exchange, bearing Date the ſame fourteenth Day of *October* in the Year aboveſaid, and directed the ſame Bills to the ſame *William Wood* then trading ſeparately at *London* aforeſaid, in the Pariſh and Ward aforeſaid; and by the aforeſaid ſecond Bill of Exchange requeſted the ſame *William Wood* to pay or cauſe to be paid to the ſaid *Joſeph* and Company, then reſiding and trading at *London* aforeſaid, in the Pariſh and Ward aforeſaid, the Sum of 130*l.* Value received at forty Days after Sight of the ſame ſecond Bill of Exchange, (his firſt or third Bill of Exchange aforeſaid not being paid) And the ſame *Joſhua* further ſaith, That afterwards, and before Payment or Satisfaction of the aforeſaid Sum of Money, in the aforeſaid three Bills of Exchange, or any of them contained, to wit, the ſixth Day of *September* in the Year aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, the aforeſaid *Joſeph* according to the Uſe and Cuſtom of Merchants, by an Indorſement with his proper Hand, and for himſelf and Company, by the Names of *Joſeph Greenway* and Company, upon the ſame Bill of Exchange indorſed and appointed the Contents of the ſame ſecond Bill of Exchange to be paid to the ſame *Joſhua*, or Order, for Value received of one *William Alloway*, (the ſame *Joſhua* then trading at *London* aforeſaid, in the Pariſh and Ward aforeſaid,) and afterwards, to wit, the ninth Day of *December* in the Year aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, the ſame *Joſhua* ſhewed to the aforeſaid *William Wood* the ſame ſecond Bill of Exchange, and the aforeſaid Indorſement thereupon: And the aforeſaid *Wil-*

liam Wood upon Sight of the ſame ſecond Bill, and the Indorſement aforeſaid, according to the aforeſaid Uſe and Cuſtom of Merchants uſed from the Time whereof the Memory of Man is not to the contrary, then and there accepted the ſame ſecond Bill of Exchange, to pay according to the Tenor thereof, (the aforeſaid firſt and third Bills of Exchange, or any of them, not being then paid;) by which, and alſo by Force of the aforeſaid Cuſtom of Merchants in that Caſe uſed and approved of from the Time whereof the Memory of Man is not to the contrary, the aforeſaid *William Wood* became liable, and yet is liable and chargeable to pay to the ſame *Joſhua* the ſame Sum of Money in the ſame ſecond Bill of Exchange mentioned, according to the Tenor and Effect of the ſame Bill and Indorſement aforeſaid; and being ſo liable and chargeable the ſame *William Wood* in Conſideration thereof afterwards, to wit, the ſame tenth Day of *December* in the Year aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, undertook, and then and there faithfully promiſed the ſame *Joſhua* to pay him the ſame Sum of Money contained in the ſame ſecond Bill of Exchange, according to the Force and Effect of the ſame Bill and Indorſement aforeſaid: **And whereas alſo** (*For Money laid out, paid, and expended. For Money borrowed and lent*, &c.) Com. Pleas.

For

For an Aſſignee of a Bankrupt againſt two Defendants, where one died before he pleaded.

London, to wit, E. *H.* late of *London*, Timber-Merchant, and *T. T.* late of *London*, Timber-Merchant, were attached to anſwer unto *J. B. G. C. W. C. E. L. J. T. R. D.* and *J. E.* Aſſignees of the Debts, Goods, and Chattels of *W. A.* and *B. R.* Bankrupts, according to the Form of the Statute lately made and provided concerning Bankrupts, of a Plea of Treſpaſs upon the Caſe, &c. And whereupon the ſame (*Plaintiffs*) by *D. R.* their Attorney complain, That whereas the aforeſaid *E.* and *T.* on the thirtieth Day of *April* in the fifth Year of the Reign of the Lord *George* the Second, now King of *Great Britain*, &c. at *London* aforeſaid, in the Pariſh of the *Bleſſed Mary of the Arches* in the Ward of *Cheap*, were indebted to the ſame (*Plaintiffs*) being as aforeſaid Aſſignees of the Debts, Goods, and Chattels of the ſaid *W. A.* and *B. R.* Bankrupts as aforeſaid, in 59 *l.* lawful Money of this Kingdom, by the aforeſaid *E.* and *T.* or the aforeſaid *W. A.* and *B. R.* before that Time borrowed, had, and received; and being ſo thereof indebted afterwards, to wit, the ſame thirtieth Day of *April* in the fifth Year aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, the aforeſaid *E.* and *T.* in Conſideration thereof aſſumed upon themſelves, and then and there faithfully promiſed the ſame (*Plaintiffs*,) that they the aforeſaid *E.*

and *T.* would well and truly pay and ſatisfy to the ſame (*Plaintiffs*) the ſame 59 *l.* when they ſhould be afterwards thereto requeſted: **And whereas alſo** the aforeſaid *E.* and *T.* afterwards, to wit, the ſame thirtieth Day of *April* in the fifth Year aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, accounted together with the aforeſaid (*Plaintiffs*) being as aforeſaid Aſſignees of the Debts and Chattels of the aforeſaid *W. A.* and *B. R.* being Bankrupts as aforeſaid, of and concerning ſeveral Sums of Money to the ſame (*Plaintiffs*) being as aforeſaid Aſſignees of the Debts, Goods, and Chattels of the aforeſaid *W. A.* and *B. R.* the Bankrupts, before that Time due, owing, and then being in Arrear and unpaid. And upon that Account, the aforeſaid *E.* and *T.* were then and there found in Arrear towards the ſame (*Plaintiffs*) as Aſſignees aforeſaid, in 48 *l.* 16 *s.* 6 *d.* of lawful Money; and ſo being thereof in Arrear, the aforeſaid *E.* and *T.* afterwards, to wit, the ſame thirtieth Day of *April* in the Year aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, in Conſideration thereof aſſumed upon themſelves, and then and there faithfully promiſed the ſame (*Plaintiffs*) that they the aforeſaid *E.* and *T.* would well and truly pay and ſatisfy to the aforeſaid (*Plaintiffs*) the 48 *l.* 16 *s.* 6 *d.* when they ſhould be thereto afterwards requeſted: **Yet** the aforeſaid *E.* and *T.* in no wiſe regarding their ſeveral Promiſes and Aſſumptions aforeſaid, but contriving and fraudulently intending the aforeſaid (*Plaintiffs*) in this Behalf craftily and ſubtilly to deceive and defraud, have not paid, nor hath either of them paid the Com. Pleas.

Com. Pleas. aforeſaid ſeveral Sums of Money, or any Part thereof, to the ſame (*Plaintiffs*) or any of them, (although to do this the aforeſaid *E.* and *T.* afterwards, to wit, on the ſame Day and Year, and at the Place aforeſaid, and often ſince, by the ſaid (*Plaintiffs*) have been requeſted;) but have hitherto altogether refuſed, and ſtill do refuſe to pay the ſame (*Plaintiffs*) or any Way ſatisfy them for the ſame, to the Damage of them the ſaid (*Plaintiffs*) 59 *l.* And therefore they bring their Suit, *&c.*

Imparlance. And the aforeſaid *E.* and *T.* by *J. P.* their Attorney, come and defend the Force and Injury, when and where, and as this Court ſhall think fit, and pray therein Leave to imparl here until in the *Octave* of St. *Hillary*; and it is granted to him, *&c.* The ſame Day is given to the aforeſaid (*Plaintiffs*) here, *&c.* At

Plea. which Day came here as well the aforeſaid (*Plaintiffs*) by their Attorney aforeſaid, as the aforeſaid *E. H.* by the aforeſaid *J. P.* his Attorney, before which ſaid Day the aforeſaid *T. T.* died: And upon this, the aforeſaid (*Plaintiffs*) according to the Form of the Statute pray that the aforeſaid *E. H.* may anſwer to the Declaration aforeſaid: And the aforeſaid *E.* by his Attorney aforeſaid defends the Force and Injury, when and where, and as this Court ſhall think fit, and ſaith, That he and the aforeſaid *T. T.* in his Life-time did not aſſume upon themſelves in Manner and Form as the aforeſaid (*Plaintiffs*) above complain againſt him and the aforeſaid *T. T.* And of this he puts himſelf upon the Country; And the aforeſaid (*Plaintiffs*) likewiſe, *&c.*

Upon

Upon a Policy of Aſſurance.

London, to wit, R. *H.* late of *London*, Merchant, was attached to anſwer unto *J. E.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *John* by *D. R.* his Attorney complains, That whereas on the ſeventh Day of *September* in the Year of our Lord One thouſand ſeven hundred and thirty-one at *London* aforeſaid, to wit, in the Pariſh of the *Bleſſed Mary of the Arches* in the Ward of *Cheap*, he the ſame *J. E.* according to the Uſe and Cuſtom of Merchants cauſed to be made a certain Writing of Aſſurance, called a *Policy of Aſſurance*; in which ſaid Writing is contained, that the aforeſaid *J.* as well in his own proper Name, as for and in the Name and Names of all and every other Perſon or Perſons, to whom the ſame belongeth, or may belong in Part, or in all, made an Aſſurance, and cauſed himſelf and them, and every of them to be aſſured, loſt, or not loſt, at and from *New England* to *Alicant* and *London* upon any Kind of Goods and Merchandizes; and alſo upon the Body, Tackle, Apparel, Ordnance, Ammunition, Artillery, Boat, and other Stores of and in the good Ship called the *Eagle Galley*, of the Burden of one hundred Tun or thereabouts; whereof the aforeſaid *J. E.* was Maſter for that preſent Voyage, or wherever elſe he ſhould go for Maſter in the ſaid Ship, or by whatſoever other Name or Names the ſame Ship, or the Maſter thereof was or ſhould be named or called, beginning

Com. Pleas. ginning the Adventure upon the ſaid Goods and Merchandizes, upon putting the ſame aboard the ſame Ship at *New England*, and upon the ſame Ship, *&c.* at its Arrival there, and ſo ſhould continue and remain during his Stay there upon the ſaid Ship, *&c.* And further, until the ſaid Ship, with all its Ordnance, Tackle, Furniture, *&c.* and the Goods and Merchandizes whatſoever ſhould be arrived at *Alicant*, and during their Stay there upon the ſaid Ship, and upon the Goods, until they ſhould be there diſcharged, and to begin the Adventure upon ſuch Goods, as ſhould be upon the ſaid Ship at *Alicant:* And further until the ſaid Ship and Goods ſhould arrive at *London*, and upon the Ship, *&c.* whilſt ſhe ſhould ſtay at Anchor four and twenty Hours in Safety; and upon the Goods and Merchandizes whilſt the ſame ſhould be unloaded and landed ſafe on Shore; and it ſhould be lawful for the ſaid Ship, *&c.* to proceed and ſail in that Voyage, and to touch at and ſtay in any Ports or Places whatſoever, without Prejudice to that Aſſurance of the ſaid Ship, Goods, or Merchandizes, for ſo much as concerned the Aſſured, by the Agreement made between the Aſſured and Aſſurers, in that Policy ſhould and were to be valued at and aſſured, ſhould not be liable to make Proof of his Intereſt, without further Account to be given by the Aſſured for the ſame touching the Adventure: And the Dangers which they the Aſſurers were content to bear and undertake upon them in that Voyage were of the Seas, Men of War, Fire-Ships, Pirates, Rovers, Jettiſons, Letters of Mart, and Contramart, Taking at Sea, Arreſts,

reſts, Reſtraints, and Detentions of all Kings, Princes, and People, of what Nation, Condition, or Quality ſoever Barratry, Maſter, and Sailors, and of all other Dangers, Damages, and Misfortunes which had come or ſhould come to the Hurt, Detriment, or Damage of the ſaid Goods, Merchandizes, and Ship, *&c.* or any Part of the ſame. And in Caſe of any Loſs or Misfortune it ſhould be lawful for the Aſſured, their Factors, Servants and Aſſigns, to follow, labour and travel for, in and about the Defence, Safety and Recovery of the ſaid Goods and Merchandizes, and Ship, *&c.* or any Part of the ſame, without Prejudice to that Aſſurance: To which Charge they, the Aſſurers, are each of them willing to contribute according to the Rate and Quantity of his Sum thereby aſſured: And it was agreed by the ſame Writing, by them the Aſſurers, that *that* Writing of Aſſurance ſhould be of as much Force and Effect as the ſureſt Writing or Policy of Aſſurance before then made in *Lombard-Street*, or on the *Royal Exchange*, or elſewhere in *London:* And ſo they the Aſſurers were content, and thereupon promiſed and obliged themſelves, and every of them for his proper Part, his Heirs, Executors and Goods, to the Aſſured, their Executors, Adminiſtrators and Aſſigns, for the true Performance of the Premiſſes, confeſſing themſelves paid the Conſideration due for that Aſſurance by *T. B.* of *London*, Merchant, at and according to the Rate of four Pounds in the Hundred; and in Caſe of Loſs to deduct ten Pounds in the Hundred, as by the ſame Writing of Aſſurance more fully appears: And the ſame *J. E.* ſaith, That afterwards,

Com. Pleas.

Com. Pleas. wards, to wit, the ſame Day and Year aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, the ſame *R.* had Notice of the Writing of Aſſurance aforeſaid; and then and there in Conſideration that the ſame *T. B.* upon the Account of the aforeſaid *J. E.* at the ſpecial Inſtance and Requeſt of him the ſaid *R.* then and there had paid to the aforeſaid *R.* the Sum of ten Pounds, then and there ſubſcribed the ſame Writing of Aſſurance, and became Aſſurer according to the Tenor of that Writing for One hundred Pounds, the Conſideration thereof, then and there aſſumed upon himſelf, and faithfully promiſed the ſame *J. E.* that he the ſame *R.* would well and truly perform all and ſingular the Agreements aforeſaid in the Writing aforeſaid mentioned, on the Part of the Aſſurers to be performed, as to the aforeſaid One hundred Pounds: And the ſame *J. E.* avers, that the Ship aforeſaid, with divers Goods and Merchandizes of him the ſaid *J.* loaded upon the ſame on the twentieth Day of *Auguſt* laſt mentioned, departed from *New England* on her Voyage in the Writing aforeſaid mentioned; and afterwards, to wit, the thirtieth Day of *September* in the ſame Year, arrived at *Alicant* aforeſaid in the Kingdom of *Spain*, with the Goods and Merchandizes aforeſaid: And that the Ship aforeſaid, being at *Alicant* aforeſaid, by Order of the King of *Spain*, and againſt the Will of him *J.* was there arreſted, reſtrained, and detained; and afterwards, by Order of the ſame King of *Spain* was uſed in the Buſineſs of the ſame King, until that Ship by certain Men of War, Enemies of the ſaid King of *Spain*, was taken and made a Prey, and wholly loſt, and became

of

of no Value to the aforeſaid *J.* Of all which Com. Pleas.
ſaid Premiſſes the ſame *R.* afterwards, to wit, the firſt Day of *January* in the Year of our Lord One thouſand ſeven hundred and thirty-one at *London* aforeſaid, in the Pariſh and Ward aforeſaid had Notice, and then and there was requeſted to pay to the ſame *J. E.* Ninety Pounds, deducting Ten Pounds, Parcel of the aforeſaid One hundred Pounds, ſo as aforeſaid aſſured: **And whereas alſo** the aforeſaid *R.* afterwards, to wit, the aforeſaid firſt Day of *January* in the Year laſt aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, was indebted, *&c.* (*For Monies had and received, &c.*)

Upon ſeveral Promiſſory Notes ſigned by the Agent of the Defendant, at the Suit of an Aſſignee of a Bankrupt.

London, to wit, T. *B.* late of *London*, Merchant, was attached to anſwer unto *N. E. R. M.* and *J. D.* Aſſignees of the Debts, Goods, and Chattels of *D. M.* and *A. S.* Bankrupts, according to the Form of the Statute lately made and provided concerning Bankrupts, of a Plea of Treſpaſs upon the Caſe: And whereupon the ſame (*Plaintiffs*) by *D. R.* their Attorney complain, That **whereas** the aforeſaid *D.* and *A.* at the Time of the making the ſeveral Promiſſory Notes hereafter mentioned, were in Company and Partners in the Trade of Merchandizing, one *R B* after the firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred and five, to wit, the eighteenth Day of *Auguſt* in the Year of

Com. Pleas. our Lord One thouſand ſeven hundred and thirty-one, then being Agent of the aforeſaid (*Defendant*) then being a Merchant, and by him (*Defendant*) uſually intruſted to make and ſign Promiſſory Notes for the Payment of Money for him the aforeſaid (*Defendant*) at *London* aforeſaid, in the Pariſh of the *Bleſſed Mary of the Arches* in the Ward of *Cheap*, made a certain Promiſſory Note in Writing, ſubſcribed with the proper Hand of the aforeſaid *R. B.* bearing Date the ſame Day and Year laſt aboveſaid; and by the ſame Note promiſed to pay to the aforeſaid *D.* and *A.* by the Name of Meſſieurs *M.* and Company, or Order, Two hundred Pounds Sterling, three Months and fifteen Days after Date of the ſame Note, Value received for his Maſter, the ſaid (*Defendant*) by Reaſon whereof, and alſo by Force and Virtue of the Statute in ſuch Caſe made and provided, the ſame (*Defendant*) is liable to pay to the ſame *D.* and *A.* the aforeſaid Two hundred Pounds, in the Note aforeſaid mentioned, according to the Tenor and Effect of the ſaid Note; and being ſo liable to the Payment thereof, the ſame (*Defendant*) in Conſideration thereof afterwards, to wit, the Ninth Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-two at *London* aforeſaid, in the Pariſh and Ward aforeſaid, aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiffs*) to pay them the aforeſaid Two hundred Pounds in the Note aforeſaid mentioned, when he ſhould be thereto afterwards requeſted: **And whereas alſo** afterwards, and after the aforeſaid firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred

hundred and five, to wit, the aforeſaid eighteenth Day of *Auguſt* in the Year of our Lord One thouſand ſeven hundred and thirty-one, he the ſaid *R. B.* then being Agent of the aforeſaid (*Defendant*) and by him uſually intruſted to ſign Promiſſory Notes for the ſame (*Defendant*) for Payment of the Money mentioned in the ſame, to the Perſon or Perſons therein named at *London* aforeſaid, in the Pariſh and Ward aforeſaid, made a certain other Promiſſory Note in Writing, ſubſcribed with the proper Name of the aforeſaid *R. B.* bearing Date the ſame Day and Year laſt aboveſaid, and by the ſame Note promiſed to pay to the aforeſaid *D.* and *A.* by the Name of Meſſieurs *M.* and Company, or Order, One Hundred forty-three Pounds Sterling, three Months and fifteen Days after Date of the ſame Note, Value received, for his Maſter the ſaid (*Defendant*) by Reaſon whereof, and by Force of the Statute in ſuch Caſe made and provided, the ſame (*Defendant*) became liable to pay to the ſame *D.* and *A.* the aforeſaid One hundred forty-three Pounds in the aforeſaid laſt mentioned Note contained, according to the Tenor and Effect thereof; and being ſo chargeable with the Payment thereof, the ſame (*Defendant*) in Conſideration thereof afterwards, to wit, the aforeſaid ninth Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-two aboveſaid at *London* aforeſaid, in the Pariſh and Ward aforeſaid, aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiffs*) to pay them the aforeſaid One hundred forty-three Pounds in the ſame Note mentioned, when he ſhould be afterwards Com. Pleas.

Com. Pleas. terwards thereto requeſted: **And whereas alſo** (*another Count on another Note, the ſame as the laſt,*) And whereas alſo the aforeſaid (*Defendant*) afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, was indebted to the ſame (*Plaintiffs*) being as aforeſaid Aſſignees of the Debts of the aforeſaid *D.* and *A.* the Bankrupts, in ſix hundred ninety-five Pounds lawful Money of this Kingdom, for diverſe Goods, Wares and Merchandizes of the aforeſaid *D.* and *A.* and by them the ſaid *D.* and *A.* to the ſame (*Defendant*) at his ſpecial Inſtance and Requeſt before that Time ſold and delivered; and being ſo indebted the aforeſaid (*Defendant*) afterward, to wit, the ſame Day and Year, and at the Place laſt aboveſaid, in Conſideration thereof undertook, and then and there faithfully promiſed the ſame (*Plaintiffs*) to pay them the aforeſaid ſix hundred ninety-five Pounds, when he ſhould be thereto afterwards required. **And whereas alſo** the aforeſaid (*Defendant*) afterwards, to wit, the ſame Day and Year, and at the Place laſt aboveſaid, in Conſideration that the aforeſaid *D.* and *A.* at the ſpecial Inſtance and Requeſt of the ſaid (*Defendant*) had before that Time ſold and delivered to the ſame (*Defendant*) diverſe other Goods, Wares and Merchandizes of them the ſaid *D.* and *A.* aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiffs*) being as aforeſaid Aſſignees of them the ſaid *D.* and *A.* the Bankrupts, to pay them ſo much Money, as the Goods, Wares and Merchandizes aforeſaid laſt mentioned, at the Time of the Sale and Delivery of the ſame, were

Goods ſold and delivered.

were reaſonably worth: And the ſame (*Plaintiffs*) aver, That the laſt mentioned Goods, Wares and Merchandizes, at the Time of the Sale and Delivery of the ſame, were reaſonably worth another Sum of ſix hundred fifty-nine Pounds, lawful Money, to wit, at *London* aforeſaid in the Pariſh and Ward aforeſaid, whereof the aforeſaid (*Defendant*) had then and there Notice; **Yet** the aforeſaid (*Defendant*) not at all regarding his ſeveral Promiſes and Aſſumptions aforeſaid, in Form aforeſaid made, (*&c.*) Com. Pleas.

Upon an Inland Bill of Exchange, accepted only by a verbal Acceptance.

Middleſex, to wit, J. *G.* late of *Weſtminſter* in the County aforeſaid Gentleman, was attached to anſwer unto *H. H.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *H.* by *D. R.* his Attorney complains, That **whereas** on the twenty-ſeventh Day of *September* in the Year of our Lord One thouſand ſeven hundred and thirty-one, and long before and after, one *J. L.* lately deceaſed, was reſiding and negotiating the Buſineſs of a Merchant, at the Town of *Southampton* in the County of the ſame Town within this Kingdom; and the ſame *J. L.* being ſo reſiding and negotiating, the ſame *J. L.* on the ſame twenty ſeventh Day of *September* in the Year aboveſaid, at the Town of *Southampton* aforeſaid, according to the Uſe and Cuſtom of Merchants in ſuch Caſe there uſed and approved, from the Time whereof the Memory of Man is not to the contrary

Com. Pleas. contrary, made a certain Bill of Exchange in Writing, ſubſcribed with his proper Hand, bearing Date the ſame twenty-ſeventh Day of *September* in the Year aboveſaid, and then and there directed the ſame Bill to the ſame *J. G.* then at *Weſtminſter* aforeſaid reſiding, trading, and merchandizing, and by the aforeſaid Bill required the ſame *J. G.* to pay to one *N. K.* then at *Southampton* aforeſaid reſiding, trading and merchandizing, or Order, the Sum of fifty Pounds, for Value received of him upon Account of the aforeſaid *J. L.* And the ſame *H.* further ſaith, That afterwards, and before Payment or Satisfaction of the aforeſaid Sum of Money in the ſame Bill contained, to wit, the ſame twenty-ſeventh Day of *September* in the Year of our Lord aboveſaid, at the Town of *Southampton* aforeſaid, the aforeſaid *N.* to whom or whoſe Order the aforeſaid Money in the ſame Bill mentioned was to be paid, according to the aforeſaid Uſe and Cuſtom of Merchants in that Caſe for the Time aforeſaid there uſed and approved, by Indorſement made with his proper Hand upon the ſame Bill of Exchange, appointed the Contents of the ſame Bill to be paid to the ſame *H.* or Order, then at *London*, in the Pariſh of the Bleſſed *Mary of the Arches* in the Ward of *Cheap*, reſiding, trading and trafficking: And the aforeſaid *H.* further ſaith, That afterwards, to wit, the fifth Day of *January* in the Year aboveſaid, he the ſame *H.* at *Weſtminſter* aforeſaid, ſhewed the ſame Bill of Exchange ſo as aforeſaid indorſed to the aforeſaid *J. G.* and then and there required the ſame *J. G.* to accept

the Bill aforeſaid, and pay to the ſame *H.* Com. Plens.
the aforeſaid fifty Pounds in the Bill aforeſaid mentioned, according to the Tenor of the ſame Bill and Indorſement aforeſaid; and the aforeſaid *J. G.* upon Sight of the ſame Bill, according to the aforeſaid Uſe and Cuſtom of Merchants from the whole Time aforeſaid uſed and approved, then and there accepted the ſame Bill to pay to the ſame *H.* according to the Tenor of the ſame Bill, and the Indorſement aforeſaid thereupon, whereby, and alſo by Force of the aforeſaid Cuſtom of Merchants, from the whole Time aboveſaid uſed and approved, the aforeſaid *J. G.* became liable and yet is liable and chargeable to pay to the ſame *H.* the aforeſaid Sum of fifty Pounds in the ſame Bill of Exchange mentioned, according to the Tenor and Effect of the ſame Bill and Indorſement aforeſaid; and being ſo liable and chargeable the ſame *John*, in Conſideration thereof afterwards, to wit, the ſame fifth Day of *January* in the Year aboveſaid, at *Weſtminſter* aforeſaid undertook, and then and there faithfully promiſed the ſame *H.* to pay him the ſame Sum of fifty Pounds in the ſame Bill of Exchange contained, according to the Tenor of the ſame Bill and Indorſement aforeſaid: **And whereas alſo** the aforeſaid *J. G. &c.* (*For Money laid out, expended and paid; and for Money borrowed and lent.*)

For

For building up a Shed, which ſtopped the Light.

London, to wit, T. *U.* late of *London*, Painter, was attached to anſwer to *T. W.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *T. W.* by *D. R.* his Attorney complains, That whereas the ſame (*Plaintiff*) on the twenty-fifth Day of *September* in the Year of our Lord One thouſand ſeven hundred and thirty-one, and always afterwards, hitherto was poſſeſſed, and ſtill is poſſeſſed of and in one antient Meſſuage with the Appurtenances, ſituate and being in the Pariſh of St. *Benedict Grace-church* in the *Bridge-Ward*, *London*; in which ſaid Meſſuage the ſame (*Plaintiff*) with his Family then and there continually afterwards hitherto hath dwelt and ſtill does dwell. And whereas the aforeſaid (*Defendant*) the ſame twenty-fifth Day of *September* in the Year aboveſaid, and always afterwards hitherto was and ſtill is poſſeſſed of a certain Yard, or Parcel of Land, and of a certain Shed in the ſame Yard or Parcel of Land erected, with the Appurtenances, ſituate and being in the Pariſh of St. *Andrew Hubbard* in the Ward of *Billingſgate*, to the ſame Meſſuage on the Eaſt-Part near and contiguouſly adjoining: And whereas alſo on the ſame twenty-fifth Day of *September* in the Year aboveſaid, from the Time whereof the Memory of Man is not to the contrary, one antient Window was in the Eaſt, Part and Parcel of the Meſſuage aforeſaid, looking to-

wards the Yard, or Parcel of Land aforeſaid, of the aforeſaid (*Defendant*); by which ſaid Window the wholeſome Air and clear Light, from the ſame twenty-fifth Day of *September* in the Year aboveſaid, and from the whole Time aforeſaid, did enter into and go in, and were uſed and accuſtomed to enter into and go into that Meſſuage, the ſaid Shed in the mean Time not hindring the ſame, to the great Advantge, Comfort and Delight of the Inhabitants of the Meſſuage aforeſaid; and the aforeſaid (*Defendant*) being ſo poſſeſſed as aforeſaid of the Yard or Parcel of his Ground aforeſaid, and the ſame (*Plaintiff*) of his Meſſuage and Window, together with their Commodities aforeſaid, ſo being as aforeſaid likewiſe poſſeſſed; the aforeſaid (*Defendant*) not ignorant of the Premiſſes, but fully knowing the ſame, and contriving and fraudulently intending the ſame (*Plaintiff*) greatly to oppreſs, and him the (*Plaintiff*) to deprive of the Air and Light which into his Meſſuage aforeſaid were uſed and accuſtomed to be brought in, and enter into, in and by the Window aforeſaid, and the Meſſuage aforeſaid to ſtop up with horrid Darkneſs, on the aforeſaid twenty-eighth Day of *September* in the Year aboveſaid, at the Pariſh of St. *Andrew Hubbard* aforeſaid in the aforeſaid Ward of *Billingſgate*, erected and raiſed up the aforeſaid Shed, in ſo much on the aforeſaid Yard, or Parcel of Ground of the aforeſaid (*Defendant*) near to the ſaid antient Meſſuage of the aforeſaid (*Plaintiff*) and that ſo erected and raiſed from the aforeſaid twenty-fifth Day of *September* in the Year aboveſaid until the Day of obtaining

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Com. Pleas. obtaining the Original Writ of him the ſaid (*Plaintiff*) hath then and there continued; ſo that by the Shed aforeſaid, ſo by him (*Defendant*) higher erected and contrived, the Window aforeſaid on the ſaid twenty fifth Day of *September* in the Year aboveſaid, and always afterwards, until the Day of obtaining the original Writ aforeſaid was more obſcured and darkned, by which the ſame (*Plaintiff*) hath for the whole Time aboveſaid totally loſt the whole Profit and Benefit of the aforeſaid Window and Light, and all the Comfort and Delight which he uſed to enjoy in and by the ſame Window: Wherefore he ſaith that he is injured, and hath Damage to the Value of One hundred Pounds; and thereof brings his Suit, *&c.*

For defaming a Man.

London, to wit, P. *B.* late of *London*, Broker, was attached to anſwer unto *J. R.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *J.* by *D. R.* his Attorney complains, That whereas the ſame *J. R.* on the ſixteenth Day of *Auguſt* in the fifth Year of the Reign of the Lord the now King, and for ſeveral Years before then laſt paſt, and always afterwards hitherto was a *Dry Salter*, and the Art and Myſtery of a *Dry Salter* during that Time at *London* aforeſaid uſed and exerciſed with his utmoſt Skill: And in uſing and exerciſing that Art he had bought and ſold divers Goods from ſeveral Perſons, as well upon his Credit as for ready Money during the

the Time aforeſaid, and ſo upon his Credit from Time to Time, well, truly, and ſeaſonably had paid and delivered, and behaved himſelf in all his Contracts, Dealings, and Buſineſſes whatſoever, honeſt, true and juſt, and for that Reaſon eaſily gained to himſelf the good Opinion, Report and Eſteem of all thoſe with whom he had any Dealings. **And whereas alſo** the ſaid *J. R.* on the ſaid ſixteenth Day of *Auguſt* in the fifth Year aboveſaid at *London* aforeſaid, had a certain Diſcourſe with one *J. F.* of and concerning the buying from the ſaid *J. F.* by the aforeſaid *J. R.* a certain great Quantity of Logwood, which ſaid Logwood, the ſaid *J. R.* chiefly uſes in his Trade aforeſaid, to wit, ſixty-eight Tons of the Logwood aforeſaid, or thereabouts, which he the ſaid *J. F.* then had to himſelf. **And whereas alſo** the ſaid *J. R.* then and there offered a great Price to the ſaid *J. F.* for his Logwood aforeſaid, to wit, eleven Pounds ten Shillings for every Ton of Logwood aforeſaid; and whereas he had near agreed for the Logwood aforeſaid, yet the aforeſaid *P. B.* not ignorant of the Premiſſes, but well knowing all thoſe Things, and contriving and maliciouſly intending to hurt and injure the ſaid *J. R.* in his good Fame and Eſteem, and to deprive and hinder the ſaid *J. R.* of the Profit and Benefit of the aforeſaid Agreement, which he was to have compleated with the ſaid *J. F.* and to bring all the ſame to another on the ſaid ſixteenth Day of *Auguſt* in the Year aboveſaid, at *London* aforeſaid, to wit, in the Pariſh of the *Bleſſed Mary of the Arches* in the Ward of *Cheap*, then and there having a Diſcourſe with

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Com. Pleas. the ſaid *J. F.* of the ſaid *J. R.* and of the Log-wood aforeſaid of the ſaid *J. F.* and of the Price which he *J. R.* promiſed to the ſaid *J. F.* for his Logwood aforeſaid, in the Preſence and Hearing of many faithful Subjects of the Lord the King, ſpoke, uttered and publiſhed to the ſaid *J. F.* of and concerning the ſaid *J. R.* and the State of his Circumſtances, theſe falſe, ſcandalous and defamatory Words, to wit, I (meaning the aforeſaid *P. B.*) adviſe you (meaning the aforeſaid *J. F.*) to take Care of yourſelf, for if he (meaning the ſaid *J. R.*) get your Wood, (meaning the aforeſaid Log-wood,) you (meaning the aforeſaid *J. F.*) may get your Money as you (meaning the aforeſaid *J. F.*) can; for I (meaning the aforeſaid *P. B.*) know that he (meaning the aforeſaid *J. R.*) hath not Money to pay you (meaning the aforeſaid *J. F.*) for I (meaning the aforeſaid *P. B.*) know him (meaning the aforeſaid *J. R.*) better than you (meaning the aforeſaid *J. F.*) **And alſo** the aforeſaid *P. B.* out of his further Malice towards the aforeſaid *J. R.* and him to injure and prejudice in Form aforeſaid, afterwards, to wit, the ſame ſixteenth Day of *Auguſt* in the fifth Year aboveſaid at the Pariſh and Ward aforeſaid, in another Diſcourſe which the ſaid *P. B.* then and there had with the ſaid *J. F.* of the ſaid *J. R.* and of the Price which he *J. R.* offered the ſaid *J. F.* for his Logwood aforeſaid, in the Preſence and Hearing of very many other faithful Subjects of the ſaid Lord the now King, to the ſaid *J. F.* falſely and maliciouſly ſpoke, aſſerted, publiſhed, and with a high

Voice

Voice pronounced of the ſaid *J. R.* theſe falſe, ſcandalous and defamatory Words, to wit, I (meaning the aforeſaid *P. B.*) know that Mr. *R.* (meaning the aforeſaid *J. R.*) cannot pay you (meaning the aforeſaid *J. F.*) for your Wood (meaning the aforeſaid Logwood of the ſaid *J. F.*) By the ſpeaking and publiſhing of which ſaid falſe, feigned and ſcandalous Words, the ſame *J. R.* not only is greatly hurt in his Goods, Name, Fame and Reputation, and among ſome to whom his Circumſtances is not known and perceived, is accounted and reputed for a needy Man, and worthy of no Credit: But alſo the aforeſaid *J. F.* on that Occaſion refuſed to ſell his Logwood aforeſaid to the ſaid *J. R.* and preſently after ſold it to another at a leſſer Price than he *J. R.* had before promiſed; whereupon the ſame *J. R.* ſaith, That he is injured, and hath Damage to the Value of One hundred Pounds; And therefore he brings his Suit, *&c.* Com. Pleas.

For Money lent, laid out and expended for Defendant; and for Money received by Defendant for Plaintiff's Uſe.

London, to wit, E. *G.* late of *London*, Merchant, was attached to anſwer unto *W. L.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *W. L.* by *D. R.* his Attorney complains, That whereas the aforeſaid *E.* on the thirtieth Day of *May* in the fifth Year of the Reign of the Lord *George*, now King of *Great Britain*, &c.

Com. Pleas. at *London*, to wit, in the Pariſh of the *Bleſſed Mary of the Arches* in the Ward of *Cheap*, was indebted to the ſaid *W. L.* in Two thouſand Pounds lawful Money of *Great Britain*, for ſo much Money of him the ſaid *W.* by the ſame *W.* to the aforeſaid *E.* at his ſpecial Inſtance and Requeſt before that Time advanced and lent: And alſo in other Two thouſand Pounds of like lawful Money of *Great Britain* for ſo much Money of the ſaid *W.* by the aforeſaid *W.* at the like Inſtance and Requeſt of the ſaid *E.* for the ſame *E.* before that Time depoſited, paid, laid out and expended; And being ſo indebted, the ſame *E.* in Conſideration thereof afterwards, to wit, the ſame Day and Year at *London* aforeſaid, in the Pariſh and Ward aforeſaid, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *W. L.* to pay him the aforeſaid two ſeveral Sums of Money aforeſaid, when he ſhould be thereto afterwards required. **And whereas alſo** the aforeſaid *E.* afterwards, to wit, the ſame thirtieth Day of *May* in the fifth Year aboveſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, was indebted to the aforeſaid *W.* in other Two thouſand Pounds lawful Money of *Great Britain*, for ſo much Money of him the ſaid *W.* by the aforeſaid *E.* to the Uſe of the ſaid *W.* before that Time had and received: And being ſo indebted the aforeſaid *E.* afterwards, to wit, the ſame thirtieth Day of *May* in the fifth Year aboveſaid at *London* aforeſaid, in the Pariſh and Ward aforeſaid, in Conſideration thereof aſſumed upon himſelf and then and there faithfully promiſed the ſame *W.* that he the aforeſaid *E.* would well and truly

truly pay and ſatisfy unto the ſame *W.* the aforeſaid Sum of Money laſt mentioned, when he ſhould be thereto afterwards required. Com. Pleas.

And whereas the aforeſaid *E.* afterwards, to wit, the ſame thirtieth Day of *May* in the fifth Year aboveſaid at *London* aforeſaid, in the Pariſh and Ward aforeſaid, was indebted to the aforeſaid *W.* in Five thouſand one hundred and twelve *French* Livres, *French* Money, in Parts beyond Seas to the Value of Two hundred twenty Pounds eleven Shillings and eight Pence, lawful Money of *Great Britain*, for ſo much *French* Money aforeſaid of him the ſaid *W.* at the ſpecial Inſtance and Requeſt of the ſaid *E. G.* by the ſame *W.* to the aforeſaid *E.* before that Time lent and advanced; And alſo in other Five thouſand one hundred and twelve *French* Livres of like *French* Money aforeſaid, to the Value of other Two hundred and twenty Pounds eleven Shillings and eight Pence, lawful Money of *Great Britain*, for ſo much *French* Money aforeſaid of him the ſaid *W.* by the ſaid *W.* at the like Inſtance and Requeſt of the aforeſaid *E.* for the ſame *E.* before that Time paid, laid out and expended: And being ſo indebted the aforeſaid *E.* afterwards, to wit, the ſame Day and Year at the Place aforeſaid in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed the ſame *W.* that he the aforeſaid *E.* would well and truly pay and ſatisfy to the ſame *W.* the aforeſaid two ſeveral Sums of Money laſt mentioned, when he ſhould be thereto afterwards required. **And whereas alſo** the aforeſaid *E.* afterwards, to wit, the ſame thirtieth Day of *May* in the fifth Year aboveſaid at *London*

Com. Pleas. aforeſaid, in the Pariſh and Ward aforeſaid, was indebted to the ſaid *W.* in other Five thouſand one hundred and twelve *French* Livres of *French* Money, to the Value of other Two hundred and twenty Pounds eleven Shillings and eight Pence of lawful Money of *Great Britain*, for ſo much *French* Money aforeſaid of the ſaid *W.* by the aforeſaid *E.* before that Time had and received to the Uſe of the ſaid *W.* and being ſo thereof indebted the aforeſaid *E.* afterwards, to wit, the ſame Day, Year and Place aboveſaid aſſumed upon himſelf, and then and there faithfully promiſed the ſame *W.* that he the aforeſaid *E.* would well and truly pay and ſatisfy to the ſame *W.* the ſame Five thouſand one hundred and twelve *French* Livres of *French* Money laſt mentioned, when he ſhould be thereto afterwards required: Yet the aforeſaid *E.* not at all regarding his ſeveral Promiſes and Aſſumptions aforeſaid, *&c.* (*as in others.*)

For not taking a ſecond Bill *of* Exchange, *and not paying the Conſideration.*

London, to wit, M. *M.* late of *London*, Merchant, was attached to anſwer unto *W. L.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *W.* by *D. R.* his Attorney complains, That whereas the aforeſaid *M.* on the fifteenth Day of *May* in the fifth Year of the Reign of the Lord *George* the ſecond, now King of *Great Britain*, at *London* aforeſaid, in the Pariſh of the *Bleſſed Mary of the Arches* in the Ward of *Cheap*, in

in Conſideration that the ſaid *W. L.* then and there being a Merchant, and uſing the Trade of a Merchant, at the ſpecial Inſtance and Requeſt of him the ſaid *M. M.* according to the Uſe of Merchants in ſuch like Caſe uſed and approved of, ſhould make two ſeveral Bills of Exchange, ſubſcribed with the proper Hand and Name of him the ſaid *W. L.* for one and the ſame Sum of Money, and ſhould direct the ſame ſeveral Bills of Exchange to one *J. L.* reſiding at *Paris* in Parts beyond Seas, and likewiſe uſing the Trade, and Director of the Bank there; and by the ſame ſeveral Bills of Exchange ſhould require the ſaid *J. L.* to pay at Uſance in Manner and Form following, to wit, The ſame *W.* by his firſt Bill of the ſaid two Bills of *Exchange* ſhould require the ſaid *J. L.* to pay to the Order of the ſaid *M. M.* Fifteen thouſand Livres *Tournois* in Specie at Uſance, Value of himſelf received. And the ſame *W.* by his ſecond Bill of the ſaid two Bills of Exchange ſhould require the ſaid *J. L.* (his aforeſaid firſt Bill of Exchange not being paid,) to pay to the Order of the ſaid *M. M.* Fifteen thouſand Livres *Tournois* in Specie, at Uſance, Value of himſelf received; and ſhould deliver the ſame two Bills of Exchange ſo as aforeſaid ſubſcribed, made and directed to the ſaid *M. M.* aſſumed upon himſelf, and the ſame Day and Year aboveſaid, at the Pariſh aforeſaid, faithfully promiſed the ſaid *W. L.* that he, the ſaid *M.* would receive of the ſame *W.* the ſame two ſeveral Bills of Exchange aforeſaid, and would thereupon well and truly pay and ſatisfy to the ſame *W. L.* Eight hundred twenty-two Pounds, eighteen Com. Pleas.

Com. Pleas. Shillings four Pence Sterling, lawful Money of *England*, when he ſhould be thereto afterwards required. And the aforeſaid *W. L.* avers, that he believing the Promiſe and Aſſumption aforeſaid of the ſaid *W. L.* afterwards, to wit, the ſame fifteenth Day of *May* in the fifth Year aboveſaid, at the Pariſh aforeſaid, according to the Uſe of Merchants, made two ſeveral Bills of Exchange for one and the ſame Sum of Money, ſubſcribed with the proper Hand and Name of him the ſaid *W. L.* bearing Date at *London* aforeſaid the ſame Day and Year laſt mentioned, and directed the ſame ſeveral Bills of Exchange to the ſaid *J. L.* by the Name of Mr. *L.* Director of the Bank at *Paris* in Parts beyond the Seas; and by the ſame ſeveral Bills of Exchange requeſted the ſaid *J. L.* to pay at Uſance in Manner and Form following, to wit, the ſame *W.* by his firſt Bill of the ſaid two Bills of Exchange, requeſted the ſaid *J. L.* to pay to the Order of the ſaid *M. M.* Fifteen thouſand Livres *Tournois* in Coin, at Uſance, Value of himſelf received, as by Advice. And the ſame *W.* by his ſecond Bill of the ſaid two Bills of Exchange, requeſted the ſaid *J. L.* (his aforeſaid firſt Bill of Exchange not being paid,) to pay to the Order of the ſaid *M. M.* Fifteen thouſand Livres *Tournois*, at Uſance, Value of himſelf received, as by Advice. And the aforeſaid *W. L.* further ſaith, That he the ſaid *W. L.* afterwards, to wit, the ſame Day and Year laſt aboveſaid, at the Pariſh and Ward aforeſaid, delivered to the ſaid *M. M.* his ſaid firſt Bill of Exchange ſo as aforeſaid ſubſcribed, made and directed; which ſaid

Bill the ſaid *M. M.* then and there received. Com. Pleas.
And the aforeſaid *W. L.* further ſaith, That he, afterwards. to wit, the —— Day of —— in the Year aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, offered to deliver to the ſaid *M. M.* his ſecond Bill of Exchange ſo as aforeſaid ſubſcribed, made and directed: But the ſaid *M.* would not receive the ſaid ſecond Bill of Exchange, but the ſame Bill then and there did abſolutely refuſe to receive; and the aforeſaid *M. M.* contriving and fraudulently intending craftily and ſubtilly to deceive and defraud the aforeſaid *W. L.* of the aforeſaid eight hundred and twenty-two Pounds eighteen Shillings four Pence Sterling, hath not as yet paid to the aforeſaid *W. L.* the aforeſaid Eight hundred twenty-two Pounds eighteen Shillings four Pence Sterling, or any ways contented him for the ſame, although the ſame *M. M.* afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, by the ſame *W. L.* and often afterwards was thereto required. **And whereas alſo** the aforeſaid *M. M.* &c. (*For Money laid out and paid*). And whereas alſo the aforeſaid *M. M.* &c. (*For Money borrowed and lent.*) **Nevertheleſs** the aforeſaid *M.* not at all regarding his ſeveral Promiſes and Aſſumptions aforeſaid in Form aforeſaid made, but contriving and fraudulently intending the ſame *W.* in this Behalf craftily and ſubtilly to deceive and defraud, *&c.* (*as in others.*)

Declaration

Declaration at the Suit of an Adminiſtrator, during the Abſence of the Teſtator's Son, upon the following Note:

Purſuant to an Order from Col. *G. P.* of *Jamaica*, dated the twenty-fourth of *October* laſt, I hereby acknowledge that I have received of *P. R.* and *N. T.* the Sum of Three hundred and fifty Pounds Sterling, which the aforeſaid Colonel *G. P.* has given me Orders to inveſt in ſeveral Goods and Merchandizes for his Account, which I hereby promiſe to do, and conſign the ſame to himſelf by the firſt Opportunity of Shipping. Witneſs my Hand in *London* this thirtieth of *December* One thouſand ſeven hundred and thirty, having ſigned three Receipts of this Tenor and Date.

J. M.

London, to wit, J. *M.* late of *London*, Merchant, was attached to anſwer *H. P.* Adminiſtrator of all and ſingular the Goods, Rights and Credits which were of *G. P.* Eſq; lately deceaſed, in the Abſence of *H. P.* Eſq; Son of the aforeſaid *G P.* deceaſed, in Parts beyond Seas, with the Will of the aforeſaid *G.* annexed, of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the

the ſame *H. P.* (*Plaintiff*) by *D. R.* his At- Com. Pleas.
torney complains, That whereas the aforeſaid *J.* in the Life-time of the aforeſaid *G.* to wit, the thirtieth Day of *December* in the Year of our Lord One thouſand ſeven hundred and thirty, at *London*, in the Pariſh of the Bleſſed *Mary of the Arches* in the Ward of *Cheap*, was indebted to the aforeſaid *G.* in his Life-time in Three hundred and fifty Pounds Sterling, lawful Money of this Kingdom, for the like Sum of Money by the aforeſaid *J.* to the Uſe of the aforeſaid *G.* in the Life-time of the ſaid *G.* before that Time had and received; and being ſo indebted the aforeſaid *J.* in Conſideration thereof afterwards, to wit, the ſame Day and Year aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *G.* in his Life-time, that he the aforeſaid *J.* would well and truly pay and ſatisfy to the ſame *G.* the aforeſaid Three hundred and fifty Pounds, when he ſhould be thereto afterwards repuired; Yet the aforeſaid *J.* in no wiſe regarding his Promiſe and Aſſumption aforeſaid in Form aforeſaid made, but contriving and fraudulently intending craftily and ſubtilly to deceive and defraud, the aforeſaid *G.* in his Life-time, and the ſame (*Plaintiff*) after his Deceaſe, in this Behalf, hath not paid the aforeſaid Three hundred and fifty Pounds, or any Part thereof, to the aforeſaid *G.* in his Life-time, or to the ſame (*Plaintiff*) after his Death, (to which ſaid Plaintiff Adminiſtration of all and ſingular the Goods, Rights and Credits, which were the aforeſaid *G.*'s

Com. Pleas. *G.*'s at the Time of his Death, after his Deceaſe, to wit, the firſt Day of *October* in the Year of our Lord One thouſand ſeven hundred and thirty-two at *London* aforeſaid in the Pariſh and Ward aforeſaid, for the Uſe and Benefit, and during the Abſence of the ſaid *H. P.* by *William*, of Divine Providence Archbiſhop of *Canterbury*, Primate and Metropolitan of all *England*, in due Form of Law was committed,) nor hath ſatisfied them, or either of them, for the ſame, (although the aforeſaid *J.* afterwards, in the Life-time of the aforeſaid *G.* to wit, the ſame Day and Year firſt above mentioned, at *London* aforeſaid in the Pariſh and Ward aforeſaid, by the aforeſaid *G.* and after the Death of the aforeſaid *G. P.* to wit, the fifteenth Day of *October* in the Year of our Lord One thouſand ſeven hundred and thirty-two, at *London* aforeſaid in the Pariſh and Ward aforeſaid, and often afterwards by the ſame (*Plaintiff*) was required ſo to do,) but he hath hitherto altogether refuſed to pay the ſame to them, or either of them, and ſtill doth refuſe to pay the ſame (*Plaintiff.*) **And whereas** alſo the aforeſaid *J.* afterwards, to wit, the ſame Day and Year firſt above-mentioned, at *London* aforeſaid in the Pariſh and Ward aforeſaid was indebted to the aforeſaid *G. P.* in his Life-time in another Sum of Three hundred and fifty Pounds lawful Money of this Kingdom, for the like Sum of Money of him the ſaid *G.* by the aforeſaid *J.* to the Uſe of him the ſaid *G.* at *London* aforeſaid in the Pariſh and Ward aforeſaid, before that Time had and received:

ceived: And being ſo indebted the aforeſaid *J.* in Conſideration thereof aſſumed upon himſelf, and faithfully promiſed the aforeſaid *G.* in his Life-time, afterwards, to wit, the aforeſaid thirtieth Day of *December* in the Year of our Lord One thouſand ſeven hundred and thirty aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, that he the aforeſaid *J.* would inveſt the aforeſaid Three hundred and fifty Pounds laſt mentioned in ſeveral Goods and Merchandizes, for the Account of the aforeſaid *G.* and would conſign the ſame to him the ſaid *George* by the then firſt Opportunity of Shipping; Yet the aforeſaid *J.* in no wiſe regarding his aforeſaid Promiſe and Aſſumption laſt mentioned in Form aforeſaid made, but contriving and fraudulently intending the aforeſaid *G.* in his Life-time, and the aforeſaid (*Plaintiff*) after his Deceaſe, in this Behalf craftily and ſubtilly to deceive and defraud, at any Time hitherto hath not inveſted the aforeſaid Three hundred and fifty Pounds laſt mentioned in any Goods or Merchandizes, nor hath conſigned any Goods or Merchandizes to the aforeſaid *G.* in his Life-time, or to the ſame (*Plaintiff*) after his Deceaſe, (to which ſaid (*Plaintiff*) Adminiſtration of all and ſingular the Goods, Rights and Credits, which were the aforeſaid *G.*'s at the Time of his Death, with the aforeſaid Will as aforeſaid annexed, as aforeſaid was granted,) according to his Promiſe and Aſſumption aforeſaid laſt mentioned, although often in the Life-time of the aforeſaid *G.* and after his Death, to wit, the fifth Day of *October* in the Year of our Lord One thouſand ſeven hundred and thirty- Com. Pleas.

Com. Pleas. thirty-two aboveſaid, an Opportunity of Shipping happened, and the ſame *J.* was then requeſted thereto, to wit, at *London* aforeſaid in the Pariſh and Ward aforeſaid, and the aforeſaid three hundred and fifty Pounds laſt mentioned ſtill remain in the Hands of the aforeſaid *J.* in Goods or Merchandizes no way inveſted, contrary to the Promiſe and Aſſumption of the ſaid *J.* as aforeſaid made to the aforeſaid *G.* in his Life-time, to the Damage of him the ſaid (*Plaintiff*) ſixty Pounds: And thereof he brings his Suit, *&c.* **Beſides this,** that the ſame (*Plaintiff*) will juſtify, that the aforeſaid *H. P.* ſtill is abſent in *Jamaica* in Parts beyond the Seas, to wit, at *London* aforeſaid in the Pariſh and Ward aforeſaid: **And** the ſame (*Plaintiff*) brings here into Court the Letters of Adminiſtration aforeſaid to him as aforeſaid granted, which teſtify the granting of the Adminiſtration aforeſaid to the ſame (*Plaintiff*) for the Uſe and Benefit, and during the Abſence of the aforeſaid *H. P.* with the Will of the aforeſaid *G. P.* in Form aforeſaid annexed, *&c.*

Upon a Promiſſory Note againſt Two Partners, indorſed by Three.

London, to wit, R. *B.* late of *London*, Merchant, and *G. H.* late of *London* Merchant, were attached to anſwer unto *W. T.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *W.* by *D. R.* his Attorney complains, That **whereas** on the firſt Day of *February* in the Year

of our Lord One thouſand ſeven hundred and thirty-one, and long before, the aforeſaid *R.* and Company to wit, the aforeſaid *G.* were and ſtill are Partners, to wit, at *London*, in the Pariſh of the Bleſſed *Mary of the Arches* in the Ward of *Cheap:* And whereas alſo the aforeſaid *R.* and *G.* ſo being as aforeſaid Partners, he the ſame *R.* the aforeſaid firſt Day of *February* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at *London* aforeſaid in the Pariſh and Ward aforeſaid, made his certain Note in Writing, ſubſcribed with his proper Name, called a Promiſſory Note, bearing Date the ſame Day and Year, and by the ſame Note the ſame *R.* for himſelf and Company promiſed to pay to one *E. P.* by the Name of Mr. *E. P.* or Order, three Months after Date of the ſame Note, One hundred Pounds, Value received: **And whereas alſo** the aforeſaid *E. P.* afterwards, to wit, the firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-two, at *London* aforeſaid in the Pariſh and Ward aforeſaid, (the aforeſaid Sum of Money in the Note aforeſaid, or any Part thereof, not being paid,) by a certain Indorſement upon the Note aforeſaid, ſubſcribed with the proper Hand of the ſaid *E.* appointed the aforeſaid Sum of Money in the Note aforeſaid contained, to be paid to one *T. F.* for Value received: **And whereas alſo** afterwards, to wit, the ſame firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-two aboveſaid, at *London*, &c. (the aforeſaid Sum of Money in the Note aforeſaid, or any Part thereof, not being paid,) the Com. Pleas.

the

Com. Pleas. the aforeſaid *T.* by one other Indorſement upon the Note aforeſaid, ſubſcribed with the proper Hand of him the ſaid *T.* appointed the aforeſaid Sum of Money, contained in the Note aforeſaid, to be paid to the aforeſaid *W.* of which ſaid Indorſements the aforeſaid *R.* and *G.* afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *London*, &c. had Notice, by Reaſon of which ſaid Premiſſes, and alſo by Force of the Statute in ſuch Caſe made and provided, the aforeſaid *R.* and *G.* became liable and chargeable, and yet are liable and chargeable to pay unto the aforeſaid *W.* the aforeſaid Sum of One hundred Pounds in the Note aforeſaid mentioned, according to the Tenor and Effect of the ſame Note and Indorſement aforeſaid: And the aforeſaid *R.* and *G.* being ſo as aforeſaid liable and chargeable, afterwards, to wit, the Day and Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, in Conſideration thereof aſſumed upon themſelves, and then and there faithfully promiſed the ſame *W.* that they the aforeſaid *R.* and *G.* would well and truly pay and ſatisfy unto the ſaid *W.* the aforeſaid One hundred Pounds in the Note aforeſaid mentioned, according to the Tenor and Effect of the ſame Note and Indorſement aforeſaid: **And whereas alſo** the aforeſaid *R.* and *G.* afterwards, to wit, the ſixth Day of *May* in the Year of our Lord laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, were indebted to the ſame *W.* in One hundred and twenty Pounds lawful Money of this Kingdom, for ſo much Money of him the ſaid *W.* by him the ſaid

W. to

W. to the ſame *R.* and *G.* and at the ſpecial Inſtance and Requeſt of them the ſaid *R.* and *G.* before then lent and advanced; and the aforeſaid *R.* and *G.* being ſo indebted the ſame *R.* and *G.* afterwards, to wit, the ſame Day and Year laſt mentioned, at *London* aforeſaid in the Pariſh and Ward aforeſaid, aſſumed upon themſelves, and then and there faithfully promiſed the ſame *W.* that they the ſame *R.* and *G.* would well and truly pay and ſatisfy to the ſame *W.* the aforeſaid One hundred and twenty Pounds laſt mentioned, when they ſhould be thereto afterwards requeſted: **And whereas alſo** the aforeſaid *R.* and *G.* afterwards, to wit, the ſame Day and Year laſt aboveſaid *(for Money laid out and expended;)* **Nevertheleſs** the aforeſaid *R.* and *G.* not regarding their ſeveral Promiſes and Aſſumptions aforeſaid, but contriving and fraudulently intending the ſame *W.* in this Behalf craftily and ſubtilly to deceive and defraud, have not yet paid, nor hath either of them paid, or any Ways contented, the aforeſaid ſeveral Sums of Money, or any Part thereof, to the ſame *W.* (although to do this the aforeſaid *R.* and *G.* by the ſame *W.* afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, and often ſince, were required,) but to pay or content the ſame *W.* for the ſame they have hitherto intirely refuſed, and ſtill do refuſe: Wherefore the ſame *W.* ſaith, that he is injured, and hath Damage to the Value of One hundred and twenty Pounds: And therefore he brings his Suit, *&c.* Com. Pleas

Upon a Promiſſory Note, ſigned by a Goldſmith's Servant, againſt the Survivor of the Partners.

London, to wit, W. *H.* late of *London*, Goldſmith, was attached to anſwer unto *R. M.* Eſq; of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *R.* by *D. R.* his Attorney complains, That **whereas** on the twenty-eight Day of *July* in the Year of our Lord One thouſand ſeven hundred and twenty, and long before, the aforeſaid *W. H.* and one *W. A.* now deceaſed, (which ſaid *W. A.* the aforeſaid *W.* ſurvived,) were Partners, and common Bankers, to wit, at *London*, in the Pariſh of the Bleſſed *Mary of the Arches* in the Ward of *Cheap*: And whereas alſo the aforeſaid *W. H.* and *W. A.* (in the Life-time of the aforeſaid *W. A.*) being ſo as aforeſaid Partners, one *T. W.* on the aforeſaid twenty-eighth Day of *July* in the Year of our Lord aboveſaid, then being a Servant of the aforeſaid *W. H.* and *W. A.* (in the Life-time of the aforeſaid *W. A.* (and by them uſually intruſted to make and ſign Promiſſory Notes for the Payment of Money for them the aforeſaid *W. A.* and *W. H.* (in the Life-time of the aforeſaid *W. A.*) at *London* aforeſaid in the Pariſh and Ward aforeſaid, made a certain Promiſſory Note in Writing, ſubſcribed with the proper Hand of the aforeſaid *T. W.* bearing Date the ſame Day and Year laſt aboveſaid, and by the ſame Note promiſed for the aforeſaid *W. A.* and *W. H.*

W. H. to pay to the aforeſaid *R.* by the Name of Colonel *R. M.* or Bearer, upon Demand, Nine hundred and thirteen Pounds thirteen Shillings; by Reaſon whereof, and alſo by Force of the Statute in ſuch Caſe made and provided, the aforeſaid *W. H.* and *W. A.* became liable and chargeable, and the aforeſaid *W. H.* ſtill is liable to pay to the ſame *R.* the aforeſaid Nine hundred and thirteen Pounds thirteen Shillings in the Note aforeſaid mentioned, and being ſo liable and chargeable the ſame *W. A.* and *W. H.* in the Life-time of him the ſaid *W. A.* in Conſideration thereof, afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, aſſumed upon themſelves, and then and there faithfully promiſed the ſame *R.* that they the ſame *W. A.* and *W. H.* would well and truly pay and content to the aforeſaid *R.* the aforeſaid Nine hundred and thirteen Pounds thirteen Shillings in the Note aforeſaid mentioned, when they ſhould be thereto afterwards requeſted: **And whereas alſo** the aforeſaid *W. A.* and *W. H.* afterwards, to wit, the ſame twenty-eighth Day of *July* in the Year of our Lord laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, in the Life-time of him the ſaid *W. A.* were indebted to the ſame *R.* in other Nine hundred thirteen Pounds lawful Money of *Great Britain*, for ſo much Money of him the ſaid *R.* before that Time had and received, by the aforeſaid *W. A.* and *W. H.* to the Uſe of him the ſaid *R.* and being ſo indebted the aforeſaid *W. A.* and *W. H.* in Conſideration thereof, in the Life-time of the

Com. Pleas.

Money had and received.

Com. Pleas. ſaid *W. A.* afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, aſſumed upon themſelves, and then and there faithfully promiſed the ſame *R.* that they the aforeſaid *W. A.* and *W. H.* would well and truly pay and ſatisfy to the ſame *R.* the aforeſaid Nine hundred thirteen Pounds laſt mentioned, when they ſhould be thereto afterwards requeſted: **And whereas alſo** the aforeſaid *W. A.* and *W. H.* afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, were indebted to the ſame *R.* in other Nine hundred thirteen Pounds of like lawful Money, for ſo much Money of him the ſaid *R.* and by the ſame *R.* to the ſaid *W. A.* and *W. H.* at their ſpecial Inſtance and Requeſt before then lent and accommodated; and being ſo indebted the aforeſaid *W. A.* and *W. H.* in the Life-time of the ſaid *W. A.* in Conſideration thereof afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *London* aforeſaid in the Pariſh and Ward aforeſaid, aſſumed upon themſelves, and then and there faithfully promiſed the ſame *R.* that they the ſaid *W. A.* and *W. H.* would well and truly pay and ſatisfy to the ſame *R.* the aforeſaid Nine hundred thirteen Pounds laſt mentioned, when they ſhould be thereto afterwards requeſted; **Yet** the aforeſaid *W. A.* and *W. H.* not regarding their ſeveral Promiſes and Aſſumptions aforeſaid in Form aforeſaid made, but contriving and fraudulently intending the ſame *R.* in this Behalf craftily and ſubtilly to deceive and defraud, the aforeſaid ſeveral Sums of Money,

Money lent and accommodated.

Money, or any Part thereof, to the ſame *R.* in the Life-time of the ſaid *W. A.* have not paid, nor hath either of them paid, nor either of them contented him for the ſame, (although the aforeſaid *W. A.* and *W. H.* by the ſame *R.* afterwards, to wit, the ſame Day and Year aboveſaid at *London* aforeſaid, in the Pariſh and Ward aforeſaid, were requeſted ſo to do) but the aforeſaid *W. A.* and *W. H.* in the Life-time of him *W. A.* have abſolutely refuſed to pay that to the ſame *R.* or any way content him for the ſame; and the aforeſaid *W. H.* ſtill doth refuſe, to the Damage of the ſaid *R.* three hundred Pounds; and thereof he brings his Suit, *&c.* Com. Pleas.

Againſt Husband and Wife, on a Promiſſory Note made by the Wife, whilſt ſingle, at the Suit of an Indorſee.

Middleſex, to wit, E. *A.* late of *Weſtminſter* in the County of *Middleſex*, Chapman, and *A.* his Wife, were attached to anſwer unto *J. H.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *J.* by *D. R.* his Attorney complains, That **whereas** the aforeſaid *A.* (whilſt ſhe was ſingle) after the firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred and five, to wit, the thirteenth Day of *December* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at *Weſtminſter* in the County aforeſaid, made her certain Note in Writing, ſubſcribed with her proper Hand, called a Promiſſory Note, bearing Date

Com. Pleas. the ſame Day and Year laſt abovementioned, and by the ſame Note, the ſame *A.* (whilſt ſhe was ſingle,) by the Name of *A. F.* promiſed to pay to one *J. B.* or Order, the Sum of Ten Pounds for Value received twenty Days after Date. And the ſaid *J. B.* afterwards, to wit, the firſt Day of *January* in the Year aboveſaid at *Weſtminſter* aforeſaid, (the aforeſaid Sum of Money in the Note aforeſaid mentioned, or any Part thereof, not being then paid) by his certain Indorſement on the Note aforeſaid ſubſcribed with his proper Hand, appointed the Contents of the ſame Note to be paid to the ſame *J. H.* or Order, for Value received, according to the Tenor of the ſaid Note, whereof the aforeſaid *A.* afterwards, (whilſt ſhe was ſingle,) to wit, the ſame Day and Year laſt aboveſaid at *Weſtminſter* aforeſaid had Notice; by which, and alſo by Force of the Statute in ſuch like Caſe lately made and provided, the aforeſaid *A.* became chargeable and liable to pay to the aforeſaid *J. H.* the aforeſaid Sum of Ten Pounds in the Note aforeſaid mentioned, according to the Tenor and Effect of the ſame Note and Indorſement aforeſaid thereupon made, and being ſo chargeable and liable, the aforeſaid *A.* afterwards, (whilſt ſhe was ſole,) to wit, the Day and Year laſt aboveſaid, at *Weſtminſter* aforeſaid aſſumed upon herſelf, and then and there faithfully promiſed the ſame *J. H.* that ſhe the aforeſaid *A* would well and truly pay and ſatisfy to the ſame *J. H.* the aforeſaid Ten Pounds in the Note aforeſaid mentioned, according to the Tenor and Effect of the ſame Note and Indorſement aforeſaid, when ſhe ſhould be thereto afterwards requeſted

ed. **And whereas** also the aforesaid *A.* afterwards, (whilst she was single,) to wit, the same Day and Year last abovesaid, at *Westminster* aforesaid was indebted to the same *J. H.* in Fifteen Pounds lawful Money of *Great Britain*, for the like Sum by him the said *J. H.* for the aforesaid *A.* and at her special Instance and Request before that Time (whilst she the said *A.* was single) paid, laid out and expended, and the aforesaid *A.* being so indebted, in Consideration thereof afterwards, to wit, the same Day and Year last abovesaid, at *Westminster* aforesaid, (whilst she the aforesaid *A.* was single,) assumed upon herself, and then and there faithfully promised the same *J. H.* that she the aforesaid *A.* would well and truly pay and satisfy to the same *J. H.* the aforesaid Fifteen Pounds, when she should be thereto afterwards requested. **And whereas also** the aforesaid *A.* afterwards, to wit, the same Day and Year last abovesaid, at *Westminster* aforesaid, (whilst she the aforesaid *A.* was single,) was indebted to the same *J. H.* in other Fifteen Pounds lawful Money of *Great Britain*, for so much Money, by him the aforesaid *J. H.* to the same *A.* and at the special Instance and Request of the said *A.* (whilst she was single) before then lent and accommodated, and being so indebted, *&c.* (*as in others*) Com. Pleas.

By a Bailiff for arresting a Man.

York, to wit, J. *B.* late of *C.* in the County of *York*, Gent. was attached to answer *E. G.* of a Plea of Trespass on the

Com. Pleas. Caſe, &c. And whereupon the ſaid *E. G.* by *D. R.* his Attorney complains, That whereas the aforeſaid *J. B.* the ſixteenth Day of *October* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at *Leeds* in the County aforeſaid, in Conſideration that the ſame (*Plaintiff*) then being one of the Bailiffs of *T. S.* Bart. Sheriff of the County of *York*, ſhould then and there at the Requeſt of the ſaid (*Defendant*) arreſt one *A. B.* Clerk, by Virtue of a certain Warrant of him the ſaid *T.* Sheriff of the County of *York* aforeſaid, directed to all and every his Bailiffs, at the Suit of the aforeſaid *J. B.* in a Plea of Treſpaſs upon the Caſe, to the Damage of him the ſaid (*Defendant*) Five hundred Pounds, aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the ſame (*Defendant*) would well and truly pay and ſatisfy to the ſame (*Plaintiff*) Five Pounds lawful Money of *Great Britain*, when he ſhould be thereto requeſted: And the aforeſaid (*Plaintiff*) avers, That he the ſame (*Plaintiff*) at the Requeſt of him the ſaid (*Defendant*) afterwards, to wit, on the nineteenth Day of *October* in the Year aforeſaid, at *Leeds* aforeſaid, arreſted the aforeſaid *A. B.* by Virtue of the Warrant aforeſaid; Yet the aforeſaid (*Defendant*) not being ignorant of the Premiſſes, but little regarding his Promiſe and Aſſumption aforeſaid, and contriving and fraudulently intending, craftily and ſubtilly to deceive and defraud him the ſaid (*Plaintiff*) in this Behalf, hath not yet paid the aforeſaid (*Plaintiff*) the ſaid Five Pounds, or any Part thereof, (although to do this the aforeſaid *J. B.* afterwards, to wit, the Day and Year laſt above-

abovementioned at *Leeds* aforeſaid, and often ſince, by the ſaid *E. G.* hath been thereto requeſted) but hath hitherto abſolutely refuſed, and ſtill doth refuſe to pay the ſame, to the Damage of him the ſaid (*Plaintiff*) Ten Pounds; And thereof he brings his Suit, *&c.* Com. Pleas.

At the Suit of an Executor of an Aſſignee of the Debts of a Bankrupt.

London, to wit, B. *T.* late of *London*, Goldſmith, was attached to anſwer unto *M. M.* Widow, Executrix of the laſt Will and Teſtament of *J. M.* Aſſignee of the Debts of *J. S.* a Bankrupt, according to the Form of the Statute made and provided concerning Bankrupts, of a Plea of Treſpaſs upon the Caſe: And whereupon the ſame *M.* by *D. R.* her Attorney complains, That whereas the aforeſaid *B.* lately, to wit, the Twenty-firſt Day of *January* in the fifth Year of the Reign of the Lord *George* the Second, now King of *Great Britain*, *&c.* was indebted to the ſame *J. M.* in his Life-time, being as aforeſaid Aſſignee of the Debts of the aforeſaid *J. S.* the Bankrupt, in Thirty Pounds lawful Money of *Great Britain*, for Money by the ſame *Benjamin*, to the Uſe of him the ſaid *J. M.* in his Life-time, as ſuch Aſſignee of the Debts of the aforeſaid *J. S.* the Bankrupt, before then, and after that he the ſaid *J. S.* had become Bankrupt, had and received of the ſame *J. S.* and being ſo indebted the aforeſaid *B.* the ſame Day and Year at *London*, in the Pariſh of the *Bleſſed Mary of the Arches* in the Ward of *Cheap*,

Com. Pleas. *Cheap*, in Consideration thereof assumed upon himself, and then and there faithfully promised the same *J. M.* in his Life-time, that he the said *B.* would well and truly pay and satisfy to the same *J. M.* the aforesaid Thirty Pounds; yet the aforesaid *B.* not regarding his Promise and Assumption aforesaid, but contriving and fraudulently intending him the said *J. M.* in his Life-time, and her the said *M.* after the Death of the said *J. M.* in this Behalf, craftily and subtilly to deceive and defraud, hath not paid, or any way satisfied the aforesaid Thirty Pounds, or any Part thereof to the same *J. M.* in his Life-time, or to the aforesaid *M.* after the Death of the said *J. M.* (although, *&c.*) but hath altogether refused to pay the same to him the said *J. M.* in his Life-time, and still doth refuse to pay the aforesaid *M.* to the Damage of her the said *M.* Thirty Pounds, and in Delay of the Execution of the last Will and Testament aforesaid, and thereof brings her Suit, *&c.* and she brings here into Court the Letters testamentary of the aforesaid *J. M.* by which it sufficiently appears to the Court here that she the said *M.* is Executrix of the last Will and Testament aforesaid, and hath Administration thereof, *&c.*

For not repairing of Fences.

York, to wit, G. *R.* late of, *&c.* was attached to answer unto *R. W.* of a Plea of Trespass upon the Case, *&c.* And whereupon the same (*Plaintiff*) by *D. R.* his Attorney complains, That Whereas the same (*Plaintiff*)

tiff) on the tenth Day of *January* in the fourth Year of the Reign of the Lord *George* the Firſt, late King of *Great Britain*, and continually afterwards hitherto was, and ſtill is lawfully poſſeſſed of and in one certain Cloſe of Land and Meadow called *Barſdales*, containing fifteen Acres, with the Appurtenances in *Great D.* in the County aforeſaid: And whereas alſo the aforeſaid (*Defendant*) the ſame Day and Year aboveſaid, and before, and from thence hitherto was, and ſtill is Tenant and Occupier of a certain Cloſe of Paſture called *Milbridge*, containing ten Acres with the Appurtenances in *Little B.* in the County aforeſaid, contiguouſly adjoining to the ſaid Cloſe of him the ſaid (*Plaintiff*); And the ſame (*Defendant*) and all other Tenants and Occupiers of his ſame Cloſe, called *Milbridge* for the Time being, from the Time whereof the Memory of Man is not to the contrary, have been uſed and accuſtomed, and ought to make, repair, keep and maintain in good Repair a certain Gate, and certain Hedges and Fences between his ſame Cloſe and the aforeſaid Cloſe of him the ſaid (*Plaintiff*) as often as it was neceſſary; Yet the aforeſaid (*Defendant*) not ignorant of the Premiſſes, but contriving, and maliciouſly intending him the ſaid (*Plaintiff*) againſt all Right to oppreſs, and greatly prejudice, on the aforeſaid tenth Day of *January* in the Year aboveſaid, and from thence until the ſixteenth Day of *October* in the ſixth Year of the Reign of the Lord the now King, ſuffered the Gate, Hedges and Fences aforeſaid to be broken, pulled down, and Com. Pleas.

Com. Pleas. and laid open, and to remain in Decay and Want of Repairs, by which many Cattle, (to wit, Horſes, Oxen, Cows, Hogs and Sheep,) of the aforeſaid (*Defendant*) and divers other Perſons unknown to the ſame (*Plaintiff*) at diverſe Days and Times, between that Time and the Day of ſuing out the Original Writ of the ſaid (*Plaintiff*) for Want of due Incloſures and ſufficient Reparation of the Gate and Hedges and Fences, entered upon the Cloſe of the ſaid (*Plaintiff*) aforeſaid, and eat up, trod down, and conſumed his Corn and Graſs then there growing; ſo that the ſame (*Plaintiff*) thereby loſt the greateſt Part of his Cloſe aforeſaid for the ſame Time, to the Damage of him the ſaid (*Plaintiff*) One hundred Pounds; And thereupon he brings his Suit, *&c.*

On a Promiſe to change Cart-Wheels, if bad, or return the Money.

Hertford, to wit, L. *M.* late of, *&c.* was attached to anſwer unto *W. F.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame (*Plaintiff*) by *D. R.* his Attorney complains, That whereas the ſame (*Plaintiff*) on the tenth Day of *June* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at *St. Albans* in the County aforeſaid, had imployed the aforeſaid (*Defendant*) then being a Wheelwright to make for him the ſaid (*Plaintiff*) two Cart-wheels of good and firm Timber, and had bargained to pay for the ſame Wheels

to

to the ſame (*Defendant*) twenty-one Shillings upon Delivery of the Wheels aforeſaid, the ſame (*Defendant*) in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the ſame (*Defendant*) ſhould make and deliver to the ſame (*Plaintiff*) two Cart-wheels made of good and firm Timber, and aſſumed and undertook upon himſelf, that the ſame Wheels ſhould laſt fourteen Years; or if the ſame Wheels ſhould not prove to be good and durable, according to the Promiſe and Undertaking of him the ſaid (*Defendant*) then the ſame (*Defendant*) when he ſhould be thereto requeſted, would give to the ſame (*Plaintiff*) other two Wheels, or ſo much Money as the aforeſaid (*Plaintiff*) ſhould pay for the Wheels aforeſaid above-mentioned: And the ſame (*Plaintiff*) avers, that he, believing the Promiſe and Aſſumption of him the ſaid (*Defendant*) afterwards, to wit, the Day and Year aboveſaid, at *St. Albans* aforeſaid, did pay to the ſame (*Defendant*) the aforeſaid twenty-one Shillings for the aforeſaid two Wheels, and then and there received them from the ſame (*Defendant*); And that the aforeſaid two Wheels were ſo unskilfully, negligently and deceitfully made, that by the uſual and moderate Exerciſe of the ſame before the Day of obtaining the Original Writ of him the ſaid (*Plaintiff*) againſt the ſaid (*Defendant*) the aforeſaid Wheels became rotten, broken, and of no Uſe or Value: And the ſame (*Plaintiff*) afterwards, and before the Day of obtaining his Original Writ aforeſaid, to wit, the twentieth Day of *Auguſt* in the

Com. Pleas.

Com. Pleas. the ſixth Year of the Reign of the Lord *George* the Second, now King of *Great Britain*, &c. at *St. Albans* aforeſaid in the County aforeſaid, gave Notice thereof to the ſame (*Defendant*) and him the ſaid (*Defendant*) then and there requeſted to give two other Wheels to the ſame (*Plaintiff*) or to pay him (twenty-one Shillings) being ſo much Money as the ſame (*Plaintiff*) had paid for the aforeſaid two firſt Wheels: Yet the aforeſaid (*Defendant*) not regarding his Promiſe and Aſſumption aforeſaid, but contriving and fraudulently intending him the ſaid (*Plaintiff*) craftily and ſubtilly to deceive and defraud in this Behalf, at any Time hitherto hath not given to the ſame (*Plaintiff*) two other Wheels, nor paid to the ſame (*Plaintiff*) twenty-one Shillings: Whereupon the ſame (*Plaintiff*) ſaith that he is injured, and hath Damage to the Value of ten Pounds: And thereof he brings his Suit, &c.

For not delivering Oxen bought.

Stafford, to wit, THomas *F.* late of, (&c.) was attached to anſwer unto *J. S.* of a Plea of Treſpaſs upon the Caſe, &c. And whereupon the ſame (*Plaintiff*) by *D. R.* his Attorney complains, That whereas the ſame (*Plaintiff*) on the —— Day of *Auguſt* in the fifth Year, &c. then having Occaſion for two Oxen to plow the Grounds of him the ſaid (*Plaintiff*) and other Husbandry Works, to be done for the Advantage of him the ſaid (*Plaintiff*) at *N.* bought of the ſame (*Defendant*) two Oxen, for

for and at the Price of twenty Pounds; and thereupon the ſame (*Defendant*) then and there, in Conſideration thereof, and alſo in Conſideration that he the ſame (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the aforeſaid (*Defendant*) then and there had paid to the aforeſaid (*Defendant*) Six-pence, Parcel of the aforeſaid twenty Pounds, and had aſſumed and promiſed to the aforeſaid (*Defendant*) to pay him nineteen Pounds nineteen Shillings Six pence, Reſidue of the aforeſaid twenty Pounds, the ſame (*Defendant*) aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the ſame (*Defendant*) would well and truly deliver the two Oxen aforeſaid to the ſame (*Plaintiff*) when he ſhould be thereto required: Yet the aforeſaid (*Defendant*) not regarding his Promiſe and Aſſumption aforeſaid, but contriving and fraudulently intending the ſame (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, hath not as yet delivered to the ſame (*Plaintiff*) the aforeſaid two Oxen, (although the aforeſaid (*Defendant*) afterwards, to wit, the third Day of *September* in the Year aboveſaid, at *Stafford* aforeſaid, and often afterwards, by the ſame (*Plaintiff*) had been required ſo to do;) by which diverſe extraordinary Buſineſſes of him the ſaid (*Plaintiff*) in plowing the Grounds of the ſaid (*Plaintiff*) and other Works of Husbandry to be done for the Advantage of the ſaid (*Plaintiff*) intirely remained undone, to the Damage of him the ſaid (*Plaintiff*) twenty Pounds; And therefore he brings his Suit, *&c.* Com. Pleas.

For

For not rooting up the Roots of Trees, and digging the Ground, according to Promiſe.

Warwickſhire, to wit, W. F. late of *Birmingham* in the ſaid County, was attached to anſwer *J. F.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame (*Plaintiff*) by *D. R.* his Attorney complains, That **whereas** on the twentieth Day of *October* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at *Warwick* in the ſaid County, a certain Diſcourſe was had between the aforeſaid (*Defendant*) and (*Plaintiff*) of and concerning the rooting up and extirpating all the Roots and Trunks of Trees in a certain Parcel of Land of him the ſaid (*Plaintiff*) called, (*&c.*) in, (*&c.*) in the County aforeſaid then being; and alſo of and concerning the digging of the ſame Parcel of Land: And upon that Diſcourſe, in Conſideration that he the ſame (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the aforeſaid (*Defendant*) had paid into the Hands of the ſame (*Defendant*) one Shilling; and alſo in Conſideration that he the ſame (*Plaintiff*) at the like ſpecial Inſtance and Requeſt of the aforeſaid (*Defendant*) then and there had faithfully promiſed to pay to the ſaid (*Defendant*) upon the rooting up, extirpating, and digging the aforeſaid Parcel of Land, twenty Shillings lawful Money of *Great Britain*, the aforeſaid (*Defendant*) on the aforeſaid twentieth Day of *October* in the

the Year aforeſaid, at *Warwick* aforeſaid, aſ- Com. Pleas.
ſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the aforeſaid (*Defendant*) at or before the Feaſt of the *Nativity of our Lord* then next following, ſhould root up and extirpate all the Roots and Trunks of Trees then being in the aforeſaid Parcel of Land, called, (*&c.*) and ſhould dig and make the ſame fit for plowing: **Yet** the aforeſaid (*Defendant*) not regarding his Promiſe and Aſſumption aforeſaid as aforeſaid made, but contriving and fraudulently intending the ſame (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, hath not rooted up, or extirpated diverſe Roots and Trunks of Trees, being in the aforeſaid Parcel of Land, nor dug or made the ſame fit for plowing, according to his Promiſe and Aſſumption aforeſaid, at or before the Feaſt of the *Birth of our Lord*; by Reaſon of which the ſame (*Plaintiff*) hath wholly loſt the Profit of the Parcel of Land aforeſaid in plowing and ſowing the ſame, to the Damage of him the ſaid (*Plaintiff*) ten Pounds: And therefore he brings his Suit, *&c.*

For Horſe-Hire.

Middleſex, to wit, E. *S.* late of, (*&c.*) was attached to anſwer *W. H.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *W.* by *D. R.* his Attorney complains, That **whereas** on the thirteenth Day of *March* in the fifth Year

Com. Pleas. of the Reign of the Lord *George*, now King, at *Weſtminſter* in the County aforeſaid, the aforeſaid *W.* at the ſpecial Inſtance and Requeſt of the ſaid *E.* had let out for Hire to the ſame *E.* a certain Horſe of him the ſaid *W.* by the ſame *E.* to ride for one Week next following, at the Rate and Price of ten Shillings for the Week aforeſaid, and ſo according to that Rate for every other Week which the ſame *E.* ſhould keep the Horſe aforeſaid; the ſame *E.* in Conſideration thereof, afterwards, to wit, the ſame Day and Year, at *Weſtminſter* aforeſaid, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *W.* to pay to him according to that Rate, for the aforeſaid one Week, and every other Week, which the ſame *E.* ſhould keep the Horſe aforeſaid: And the ſame *W.* avers, that the aforeſaid *E.* the ſame Day and Year, at *Weſtminſter* aforeſaid, had the ſame Horſe from the aforeſaid *W.* and kept the ſame for the Space of the aforeſaid one Week and ſix other Weeks, and five Days from thence next following: **And whereas alſo** the aforeſaid *E.* afterwards, to wit, the tenth Day of *May* in the ſixth Year aboveſaid, at *Weſtminſter* aforeſaid, was indebted to the ſame *W.* in eighty Shillings of lawful Money of this Kingdom, for the Hire of one other Horſe of the ſaid *W.* by the ſame *W.* to the ſame *E.* at his ſpecial Inſtance and Requeſt before then let to Hire, and by the ſame *E.* on that Hire rode and journied: And being ſo indebted the aforeſaid *E.* in Conſideration thereof afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *Weſtminſter* aforeſaid, aſſumed upon himſelf, and then and there faithfully promiſed

promiſed the ſame *W.* to pay him the ſame Sum of Money, when he ſhould be thereto afterwards requeſted; **And whereas** the aforeſaid *E.* afterwards, to wit, the ſame Day and Year laſt aboveſaid, at *Weſtminſter* aforeſaid, in Conſideration that the aforeſaid *W.* at the ſpecial Inſtance and Requeſt of him the ſaid *E.* had let to hire to him another Horſe of him the ſaid *E.* and that the ſame *E.* had rode and travelled that Horſe on that Hire, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *W.* to pay him ſo much Money as he reaſonably deſerved to have for the ſame: And the ſame *W.* avers, that he reaſonably deſerved to have therefore of the ſame *E.* another Sum of eighty Shillings of like lawful Money, to wit, at *Weſtminſter* aforeſaid, whereof the aforeſaid *E.* the Day and Year laſt aboveſaid there had Notice: **Yet** the aforeſaid *E.* little regarding his ſeveral Promiſes and Aſſumptions aforeſaid in Form aforeſaid made, but contriving and fraudulently intending the ſame *W.* in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid any Part of the Money aforeſaid in the firſt Promiſe aforeſaid ſpecified, nor the aforeſaid ſeveral other Sums of Money in the ſeveral other Promiſes aforeſaid mentioned, or any Part thereof; (although the aforeſaid *E.* afterwards, to wit, the ſame Day and Year aboveſaid, at *Weſtminſter* aforeſaid, by the ſame *W.* hath been required ſo to do;) but he hath hitherto abſolutely refuſed, and ſtill doth refuſe to pay the ſame to him, or any ways to content him for the ſame, to the

Com. Pleas.

Com. Pleas. Damage of him the ſaid *W.* ten Pounds; And therefore brings his Suit, *&c.*

For Marriage Portion.

York, to wit, J. *W.* late of, *&c.* was attached to anſwer unto *J. H.* of a Plea of Treſpaſs upon the Caſe, *&c.* And thereupon the ſame (*Plaintiff*) by *D. R.* his Attorney complains, That **whereas** on the ſixteenth Day of *October* in the ſixth Year, *&c.* at (*&c.*) a certain Diſcourſe was had between him the ſaid (*Plaintiff*) and the aforeſaid (*Defendant*) for a Marriage to be had and ſolemnized between the ſaid (*Plaintiff*) and one *E.* the Daughter of the ſaid (*Defendant*) and upon that Diſcourſe the aforeſaid (*Defendant*) in Conſideration that he the ſaid (*Plaintiff*) would marry his Daughter the aforeſaid *E.* aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the aforeſaid (*Defendant*) would well and truly pay and give One hundred Pounds lawful Money of *Great Britain*, when he was afterwards thereto requeſted: And although the ſame (*Plaintiff*) believing the Promiſe and Aſſumption aforeſaid of him the ſaid (*Defendant*) afterwards, to wit, the —— Day of, (*&c.*) —— at, (*&c.*) according to the Rites and Ceremonies of the Church of *England*, married the aforeſaid *E.* **Yet** the aforeſaid (*Defendant*) little regarding his Promiſe and Aſſumption aforeſaid, but contriving and fraudulently intending the ſaid (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and

and defraud, the aforeſaid Sum of One hundred Pounds, or any Part thereof, to the ſaid (*Plaintiff*) hath not paid, or any wiſe contented; although to do this the aforeſaid (*Defendant*) afterwards, to wit, the —— Day of —— *&c.* —— aforeſaid, and often ſince by the ſaid (*Plaintiff*) was requeſted; but the ſame to him to pay, or any wiſe content, he hath hitherto altogether refuſed, and ſtill doth refuſe, to the Damage of the ſaid (*Plaintiff*) Two hundred Pounds; And therefore he brings his Suit, *&c.* Com. Pleas.

On a Promiſe to marry the Plaintiff.

York, to wit, J. *H.* late of *Leeds* in the County of *York*, Gent. was attached to anſwer unto *P. P.* Spinſter, of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *P.* by *D. R.* her Attorney complains, That **whereas** on the Twenty-ſeventh Day of *March* in the fifth Year of the Reign of the Lord the now King at the Caſtle of *York*, a certain Diſcourſe was moved and had between one *R. H.* late of, (*&c.*) Father of the aforeſaid (*Defendant*,) and *W. P.* late of, (*&c.*) Father of her the ſaid (*Plaintiff*) and the aforeſaid (*Defendant*) and (*Plaintiff*) of and concerning a Marriage to be had and ſolemnized between them the ſaid (*Defendant*) and (*Plaintiff*) upon which ſaid Diſcourſe afterwards, to wit, the Twenty-ſeventh Day of *March* in the Fifth Year aboveſaid at the Caſtle of *York* aforeſaid, it was concluded and agreed by and between the ſaid Parties, that with the mutual Aſſent of all Parties, the ſaid (*Defendant*)

Com. Pleas. ſhould marry the aforeſaid (*Plaintiff*) and that the ſaid (*Plaintiff*) ſhould marry the aforeſaid (*Defendant*): **And whereas alſo** the aforeſaid *R.* afterwards, to wit, the ſame Twenty-ſeventh Day of *March* in the fifth Year aboveſaid at the Caſtle of *York* aforeſaid, aſſumed upon himſelf, and then and there had faithfully promiſed, That if the ſame (*Defendant*) ſhould marry the aforeſaid (*Plaintiff*) and the aforeſaid (*Plaintiff*) ſhould marry the aforeſaid (*Defendant*) according to the Agreement aforeſaid, then he the ſaid *R.* would give and beſtow on the aforeſaid (*Defendant*) all his Eſtate, as well real as perſonal, when by the ſaid (*Defendant*) he ſhould be thereto requeſted after the Conſummation of the ſaid Marriage, under this Condition, That the ſaid (*Defendant*) ſhould well and ſufficiently ſupport and maintain the aforeſaid *R.* his Father, and *M.* his Wife, the Mother of the ſaid (*Defendant*) as long as each of them ſhould live; and that it ſhould be lawful for the ſame *R.* by his laſt Will or otherwiſe, at the Time of his Death, to give and diſpoſe of one Cow of his perſonal Eſtate aforeſaid as the ſaid *R.* pleaſed: **And whereas alſo** the aforeſaid *W. P.* Father of her the ſaid (*Plaintiff*) afterwards, to wit, the ſame Twenty-ſeventh Day of *March* in the fifth Year aboveſaid at the Caſtle of *York* aforeſaid, did aſſume upon himſelf, and then and there did faithfully promiſe the ſaid (*Defendant*) that if the ſaid (*Defendant*) would take for his Wife the aforeſaid (*Plaintiff*,) and the aforeſaid (*Plaintiff*) would take for her Husband the aforeſaid (*Defendant*) according to the Agreement aforeſaid, then he the ſaid *W.* would give and

and beſtow on the aforeſaid (*Defendant*) for his own proper Uſe Twenty Pounds, lawful Money of *Great Britain*, or Goods and Chattels to the Value of Twenty Pounds, when the ſaid (*Defendant*) ſhould require the ſame after the Conſummation of the ſaid Marriage: And whereas alſo the aforeſaid (*Plaintiff*) afterwards, to wit, the aforeſaid Twenty-ſeventh Day of *March* in the fifth Year aboveſaid at the Caſtle of *York* aforeſaid, at the ſpecial Inſtance and Requeſt of him the ſaid (*Defendant*) in Conſideration of the Premiſſes, aſſumed upon herſelf, and then and there faithfully promiſed the ſaid (*Defendant*) that ſhe the ſaid (*Plaintiff*) would take for her Husband the aforeſaid (*Defendant*,) when ſhe ſhould be thereto afterwards requeſted by the ſaid (*Defendant*): And the aforeſaid (*Defendant*) afterwards, to wit, the aforeſaid Twenty-ſeventh Day of *March* in the Year aboveſaid at the Caſtle of *York* aforeſaid, in Conſideration of the Premiſſes aſſumed upon himſelf, and then and there faithfully promiſed the ſaid (*Plaintiff*) that he the aforeſaid (*Defendant*) would take the aforeſaid (*Plaintiff*) for his Wife when he ſhould be thereto afterwards requeſted; and the aforeſaid (*Plaintiff*) avers, That afterwards, to wit, the Twenty-ſixth Day of *April* in the Year aboveſaid at the Caſtle of *York* aforeſaid, one Pair of Shoes and two Hats of the Value of Nineteen Shillings and four Pence, on the Aſſent, and at the ſpecial Inſtance and Requeſt of him the ſaid (*Defendant*) with the Money of the aforeſaid *W. P* were bought and given, and delivered to the ſaid (*Defendant*) in Part of Satisfaction of the Aſſumption and Promiſe as aforeſaid Com. Pleas.

Com. Pleas. ſaid made by the aforeſaid *W. P.* and although the ſaid (*Plaintiff*) from the aforeſaid Time of the Agreements, Promiſes and Aſſumptions aforeſaid, as aforeſaid made, until the Time of the Solemnization of the Marriage of the ſaid (*Defendant*) with another Woman hereafter named, always was ready and offered to take the aforeſaid (*Defendant*) for her Husband, and to marry the ſaid (*Defendant*), and altho' the ſaid (*Plaintiff*) afterwards, to wit, the Twenty ſeventh Day of *April* in the Year aboveſaid, and often afterwards at the Caſtle of *York* aforeſaid, requeſted the aforeſaid (*Defendant*) that he ſhould take her the ſaid (*Plaintiff*) for his Wife; Yet the aforeſaid (*Defendant*) not regarding his Promiſes and Aſſumptions aforeſaid, but contriving and fraudulently intending her the ſaid (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, hath abſolutely refuſed the aforeſaid (*Plaintiff*) for his Wife; and afterwards, to wit, the ſecond Day of *September* in the Sixth Year of the now King, at the Caſtle of *York* aforeſaid, hath taken for his Wife one *A. L.* late of *York* Spinſter, being ſtill living, to the Damage of her the ſaid (*Plaintiff*) Two hundred Pounds. And therefore ſhe brings her Suit, &c.

On Promiſe to pay for a Mare, on Plaintiff's Marriage.

York, to wit, J. *W.* late of *York* in the County aforeſaid, Gent. was attached to anſwer unto *E. L.* of a Plea of Treſpaſs upon the Caſe, &c. And whereupon the ſaid (*Plaintiff*

(*Plaintiff*) by *D. R.* his Attorney complains, Com. Pleas.
That **whereas** the aforeſaid (*Defendant*) on the ſeventeenth Day of *October* in the Fifth Year of the Reign of the Lord the now King at *York* aforeſaid, in Conſideration that he the ſaid (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the aforeſaid (*Defendant*) had ſold and delivered to the ſaid (*Defendant*) one Mare of him the ſaid (*Plaintiff*) for Four Pounds lawful Money of *Great Britain*, to the ſaid (*Plaintiff*) by the aforeſaid (*Defendant*) then in Hand paid, and for Sixty-five Shillings like lawful Money, to be paid at the Day of Marriage of the ſaid (*Defendant*,) the aforeſaid (*Defendant* aſſumed upon himſelf, and then and there faithfully promiſed the ſaid (*Plaintiff*) that he the ſaid (*Defendant*) would well and truly pay and ſatisfy to the ſaid (*Plaintiff*) the aforeſaid Sixty-five Shillings at the Day of Marriage of the ſaid (*Plaintiff*): And the ſaid (*Plaintiff*) avers, That he the ſaid (*Plaintiff*) afterwards, to wit, on the firſt Day of *April* in the Sixth Year of the Reign of the now King at *York* aforeſaid married one *J. L.* according to the Rites and Ceremonies of the Church of *England*, and that the aforeſaid (*Defendant*) then and there had Notice thereof: **And whereas alſo** the aforeſaid (*Defendant*) afterwards, to wit, the ſecond Day of *April* in the Year laſt aboveſaid, at *York* aforeſaid was indebted to the ſaid (*Plaintiff*) in other Sixty-five Shillings like lawful Money for one other Mare to the ſaid (*Defendant*,) and at his Requeſt by the aforeſaid (*Plaintiff*) before that Time ſold and delivered, and being ſo thereof indebted the ſame (*Defendant*) in Conſideration thereof aſſumed upon himſelf, and then and there faithfully

promiſed

Com. Pleas. promiſed the ſaid (*Plaintiff*) that he the ſaid (*Defendant*) would well and truly pay and ſatisfy to the ſaid (*Plaintiff*) the aforeſaid ſixty-five Shillings laſt mentioned, when he ſhould be afterwards thereto requeſted; Yet the aforeſaid (*Defendant*) little regarding his ſeveral Promiſes and Aſſumptions aforeſaid, but contriving and fraudulently intending the ſaid (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid the aforeſaid ſeveral Sums of Money, or any Part thereof, to the ſaid (*Plaintiff*) or any Ways ſatisfied him for the ſame, (although the ſaid (*Defendant*) afterwards, to wit, the Day and Year laſt aboveſaid, at *York* aforeſaid, by him the ſaid (*Plaintiff*) was required ſo to do;) but he hath hitherto refuſed, and ſtill doth refuſe to pay him, or any Way ſatisfy him for the ſame, to the Damage of him the ſaid (*Plaintiff*) ten Pounds; And therefore he brings his Suit, *&c.*

For ſuffering Defendant to continue in Poſſeſſion of a Houſe for a certain Time.

York, to wit, R. *K.* late of *Leeds* in the County of *York*, Gent. was attached to anſwer unto *J. C.* of a Plea of Treſpaſs upon the Caſe; And whereupon the ſame (*Plaintiff*) by *T. H.* his Attorney complains, That whereas the aforeſaid (*Defendant*) and one *E.* his Wife now deceaſed, in the Life-time of the ſame *E.* to wit, the Ninth Day of *November* in the fourth Year of

of the Reign of the Lord *George* the Second, now King of *Great Britain*, &c. and long before, were ſeiſed of and in one Cottage, one Barn and one Acre of Meadow, with the Appurtenances in *P.* in their Demeſne as of Fee and in Right of the ſame *E.* and being ſo ſeiſed the ſame *E.* afterwards, to wit, the ſame Day and Year aboveſaid, at *P.* aforeſaid, of ſuch Eſtate of and in thoſe Tenements with the Appurtenances died ſeiſed, after whoſe Death thoſe Tenements with the Appurtenances deſcended to the ſame (*Plaintiff*) as Brother and Heir of the aforeſaid *E.* but then were in the actual Poſſeſſion of him (*Defendant*) and the ſame (*Defendant*) ſo being thereof poſſeſſed the ſame (*Defendant*) afterwards, to wit, the ſame nineteenth Day of *November* in the fourth Year aboveſaid, at *P.* aforeſaid, in Conſideration that the aforeſaid (*Plaintiff*) at the ſpecial Inſtance and Requeſt of him the ſaid (*Defendant*) would ſuffer him (*Defendant*) to continue in Poſſeſſion of thoſe Tenements with the Appurtenances, from thence until the firſt Day of *May* then next following, and to have and take the Profit and Uſe thereof for the whole Time aforeſaid to his own proper Uſe, aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) to pay the ſame (*Plaintiff*) ſo much Money as the ſame (*Plaintiff*) thereupon reaſonably deſerved to have: And the ſame (*Plaintiff*) avers, that the aforeſaid (*Defendant*) at the aforeſaid Inſtance of him the ſaid (*Defendant*) and by the Permiſſion and Sufferance of him the ſaid (*Plaintiff*) continued in Poſſeſſion of thoſe Tenements with the Com. Pleas.

the

Com. Pleas. the Appurtenances, from the aforeſaid Time of making that Promiſe until the aforeſaid firſt Day of *May* then next following, and took and had the Profits and Uſe thereof for the whole ſame Time to his own proper Uſe; and that the ſame (*Plaintiff*) thereupon reaſonably deſerved to have of the aforeſaid (*Defendant*) thirty-Shillings, to wit, at *P.* aforeſaid: **And whereas** the aforeſaid (*Defendant*) and *E.* in the Life-time of her *E.* to wit, the ſame ninth Day of *November* in the fourth Year aboveſaid, and long before, were ſeiſed of and in one other Cottage, one other Barn, and one other Acre of Meadow, with the Appurtenances in *P.* aforeſaid, in their Demeſne as of Fee, in Right of the ſame *E.* and ſo being thereof ſeiſed the ſame *E.* afterwards, to wit, the ſame Day and Year aboveſaid, at *P.* aforeſaid, in ſuch Eſtate of and in thoſe Tenements laſt mentioned with the Appurtenances died ſeiſed, after whoſe Death thoſe Tenements with the Appurtenances deſcended to the ſame (*Plaintiff*) as Brother and Heir of the aforeſaid *E.* but then were in the actual Poſſeſſion of him the ſaid (*Defendant*); and the ſame (*Defendant*) being ſo thereof poſſeſſed, afterwards, to wit, the ſame ninth Day of *November* in the fourth Year aboveſaid, at *P.* aforeſaid in Conſideration that the aforeſaid (*Plaintiff*) at the like Inſtanee and Requeſt of him the ſaid (*Defendant*) would ſuffer him the ſaid (*Defendant*) to continue in Poſſeſſion of thoſe Tenements with the Appurtenances, from thence until the firſt Day of *May* then next following, and to take the Profits

Profits thereof to his own proper Uſe for that whole Time, aſſumed upon himſelf, and then there faithfully promiſed the ſame (*Plaintiff*) to pay to the ſame (*Plaintiff*) thirty Shillings for the ſame: And the ſame (*Plaintiff*) avers, That the aforeſaid (*Defendant*) at the aforeſaid Inſtance and Requeſt of him the ſaid (*Defendant*) laſt mentioned, and by the Permiſſion of him (*Plaintiff*) hath continued in Poſſeſſion of the ſame laſt mentioned Tenements with the Appurtenances, from the aforeſaid Time of making that laſt mentioned Promiſe and Aſſumption, until the aforeſaid firſt Day of *May* then next following, and the Profits thereof to his own proper Uſe for the whole ſame Time took and had; **Yet** the aforeſaid (*Defendant*) little regarding his ſeveral Promiſes and Aſſumptions aforeſaid, but contriving, *&c. (as in others.)* Com. Pleas.

On Promiſe to permit the Plaintiff to take half Profit of a Parcel of Land, in Conſideration Plaintiff lent Defendant twenty Pounds without Intereſt.

York, to wit, **F**. *T.* late of, *&c.* was attached to anſwer unto *G. B.* of a Plea of Treſpaſs upon the Caſe; And whereupon the ſame (*Plaintiff*) by *T. H.* his Attorney complains, That **whereas** the aforeſaid (*Defendant*) on the thirtieth Day of *Auguſt* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at *P.* in the County

Com. Pleas. County aforeſaid, and long before and after, was intitled to and poſſeſſed of a certain Parcel of Ground called *C.* with the Appurtenances in *B.* in the County aforeſaid, of the yearly Rent of forty Pounds; And whereas alſo the aforeſaid (*Defendant*) on the —— Day of —— at, (*&c*) in Conſideration that the ſame (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the ſaid (*Defendant*) had then and there lent to the ſame (*Defendant*) twenty Pounds, upon the Security of the ſaid (*Defendant's*) own Bond, and without any Intereſt by the ſaid (*Plaintiff*) from him the ſaid (*Defendant*) to be taken or had for the ſame, from thence until the fifth Day of *April* then next following, aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the ſame (*Plaintiff*) ſhould have to his own proper Uſe a Moiety of the whole clear yearly Profit of the aforeſaid Parcel of Ground called *C.* and a Moiety of the Tenant's Right of the ſame, as long as the ſame (*Defendant*) ſhould have and enjoy the ſame, and continue Tenant thereto: And the ſame (*Plaintiff*) avers, that the aforeſaid (*Defendant*) from the aforeſaid Time of the Promiſe and Aſſumption aforeſaid made as aforeſaid, until the Feaſt of St. *Michael* the Archangel in the Year, (*&c.*) and afterwards, hitherto injoyed and had, and ſtill injoys, and hath the aforeſaid Parcel of Ground called *C.* under the Demiſe aforeſaid, and hath continued Tenant thereto for the ſame, and ſtill continues; and that the clear Profit thereof for that Time was reaſonably worth twenty-four Pounds: All which ſaid Profits the aforeſaid

ſaid (*Defendant*) for the whole ſame Time had and received to the proper Uſe of the ſaid (*Defendant*) although one Moiety being twelve Pounds became due and payable to the ſame (*Plaintiff*) according to the aforeſaid Promiſe and Aſſumption of the ſame (*Defendant*); Yet the aforeſaid (*Defendant*) not regarding his Promiſe and Aſſumption aforeſaid, but contriving and fraudulently intending the ſaid (*Plaintiff*) craftily and ſubtilly to deceive and defraud the ſaid (*Plaintiff*) in this Behalf, hath not permitted the ſame (*Plaintiff*) to have a Moiety of his Profit aforeſaid, according to his Promiſe and Aſſumption aforeſaid, nor the aforeſaid twelve Pounds for the Moiety of that Profit, or any Part thereof, (although, (*&c.*) at (*&c.*) and often afterwards, was required,) hath not paid, or any way contented, but hath altogether refuſed, and ſtill doth refuſe to pay him the ſame, to the Damage, (*&c.*) And therefore he brings his Suit, *&c.* Com. Pleas.

On a Promiſe to pay forty Pounds, or perform an Award.

Cumberland, to wit, T. C. late of, *&c.* was attached to anſwer unto *J. W.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame (*Plaintiff*) by *T. H.* his Attorney complains, That whereas, at the Time of the Submiſſion hereafter mentioned, certain Diſputes and Differences were depending between the aforeſaid (*Plaintiff*) and (*Defendant*) and for the final Determination thereof the ſame *Joſeph* and *John*

Com. Pleas. *John* lately, to wit, the firſt Day of *January* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at, (*&c.*) ſubmitted themſelves and thoſe Differences to the Judgment and final Determination of *C. D. J. H.* and *T. N.* or any two of them, to award and finally determine between them thoſe Diſputes and Differences; and the ſame *J.* at the Inſtance of the ſaid (*Defendant*) aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Defendant*) to perform that Award in all Things on his Part to be fulfilled, or in Default thereof would pay to the ſame (*Defendant*) forty Pounds; and in Conſideration thereof the ſame (*Defendant*) aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the ſame *J. W.* would perform and fulfil that Award in all Things by him to be fulfulled, or in Default thereof would pay the ſame *J.* forty Pounds; and afterwards, to wit, the eighth Day of the ſame Month of *January* in the Year aboveſaid at *P.* aforeſaid, the aforeſaid *J. H.* and *T. N.* then and there having taken upon themſelves the Burden of the Arbitrament aforeſaid of and upon the Premiſſes aforeſaid between the Parties aforeſaid, awarded and finally determined in Manner and Form following, to wit, That the aforeſaid *J. W.* ſhould pay to the ſame (*Plaintiff*) ſeven Pounds three Shillings four Pence, in full Satisfaction and Diſcharge of thoſe Diſputes and Differences; whereupon the aforeſaid *J.* then and there had Notice of the ſaid Award, and afterwards, to wit, the ſame Day and Year laſt mentioned, at (*&c.*) was requeſted by the

John to pay the said Sum of seven Pounds three Shillings four Pence, pursuant to the said Award, but the said *J.* hath altogether neglected to pay the same, and now refuses so to do; **Yet** the aforesaid *J.* not regarding his Promise and Assumption, but contriving and fraudulently intending the same *J.* in this Behalf craftily and subtilly to deceive and defraud, hath not as yet paid the aforesaid Sum of forty Pounds, or any Part thereof, by him on that Occasion payable to the same *J.* although by him afterwards, to wit, the first Day of *April* then next following, at *P.* aforesaid, he hath been required so to do, but hath hitherto altogether refused, and still doth refuse to pay him the same, to the Damage of him the said *J.* forty Pounds; And therefore he brings his Suit, *&c.* Com. Pleas.

On Promise to pay Plaintiff Ten Guineas, when one T. R. *should be Lord Mayor of* York.

York, to wit, **J.** *T.* late of, (*&c.*) was attached to answer unto *L. C.* Clerk, of a Plea of Trespass upon the Case, *&c.* And whereof the said *L. C.* by *D. R.* his Attorney complains, That **whereas** the aforesaid (*Defendant*) on the first Day of *August* in the Year of our Lord One thousand seven hundred and twenty-nine, at the City of *York* aforesaid, in Consideration that the same (*Plaintiff*) and one *N. C.* Esq; now deceased, in his Life-time, at the special Instance and Request of him the said (*Defendant*) had then

Com. Pleas and there paid to the aforeſaid (*Defendant*) to the proper Uſe of him the ſaid (*Defendant*) a certain Piece of coined Gold, called a Guinea, to the Value of twenty-one Shillings, aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) and the ſaid *N. C.* in his Life-time, (whom the ſame (*Plaintiff*) ſurvived,) that he the aforeſaid (*Defendant*) would pay to the ſame (*Plaintiff*) and *N.* (whom the ſame (*Plaintiff*) ſurvived,) ten ſuch Pieces of coined Gold, called Guineas, when one *T. R.* Gent. ſhould be Lord Mayor of *York*: And the ſame (*Plaintiff*) avers, that the aforeſaid *T. R.* afterwards, to wit, the tenth Day of *February* in the Year of our Lord One thouſand ſeven hundred and thirty-one, became and was, and a long Time, to wit, for the Space of ſix Months then next following, continued Lord Mayor of *York*; and that the aforeſaid *N.* after the Promiſe and Aſſumption aforeſaid made, died, to wit, at the City of *York* aforeſaid; and that the aforeſaid ten Pieces of coined Gold, called Guineas, to the Value of ten Pounds ten Shillings, became due and payable to the ſame (*Plaintiff*); whereupon the aforeſaid (*Defendant*) afterwards, to wit, the firſt Day of *May* in the Year laſt aboveſaid, had there Notice; Yet the aforeſaid *John* not regarding his Promiſe and Aſſumption aforeſaid, but contriving and fraudulently intending him the ſaid (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid, or any way ſatisfied the aforeſaid (*Plaintiff*) the ſaid ten Pieces of Gold, or the Value of them, or any Part thereof, (although

(although by him the ſaid (*Plaintiff*) on the tenth Day of *September* in the Year laſt aboveſaid, and often afterwards, at the City of *York* was thereto required,) but hath altogether refuſed, and ſtill doth refuſe to pay him the ſame. **And whereas alſo** the aforeſaid (*Defendant*) on the ninth Day of *July* in the Year of our Lord One thouſand ſeven hundred and twenty-nine was indebted to the ſame (*Plaintiff*) and the aforeſaid *N.* in his Life-time, (whom the ſame (*Plaintiff*) hath ſurvived) in forty Shillings, for Money by the aforeſaid (*Defendant*) to the Uſe of him the ſaid (*Plaintiff*,) and *N.* before received, and being ſo indebted, the aforeſaid (*Defendant*) the ſame ninth Day of *July* in the Year laſt aboveſaid at the City of *York* aforeſaid, in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) and the ſaid *N.* in his Life-time, that he the aforeſaid (*Defendant*) would well and truly pay and ſatisfy to the ſame (*Plaintiff*) and the ſaid *N.* in his Life-time the ſame forty Shillings; **Yet** the aforeſaid (*Defendant*) not regarding his ſeveral Promiſes, *&c.* (*as above.*) Com. Pleas.

For not fetching away Lead bought.

Warwickſh. to wit, R. *L.* late of the Town of *Warwick* in the County aforeſaid, Plumber, was attached to anſwer unto *T. P.* of a Plea of Treſpaſs upon the Caſe, *&c.* and whereupon the ſame (*Plaintiff*) by *J. H.* his Attorney complains, That **whereas** the aforeſaid (*Defendant*) in Conſideration that

Com. Plea. the ſame (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the aforeſaid (*Defendant*) the fifteenth Day of *September* in the Year of our Lord One thouſand ſeven hundred and thirty, at *S.* in the County aforeſaid, had bargained and ſold to the ſame *R.* two hundred Weight of Lead, to be fetched by the aforeſaid (*Defendant*) when he ſhould be thereto required, for thirteen Pounds ten Shillings, to be paid by the ſame (*Defendant*) to the ſame (*Plaintiff*) upon taking away the ſame; and thereupon the ſaid *T.* then and there received of and from the ſame (*Defendant*) One Shilling in Part of Payment of that Price, and to bind the Bargain aſſumed upon himſelf, and then and there faithfully promiſed the ſame *T.* that he the aforeſaid (*Defendant*) would fetch the aforeſaid Lead of and from the ſame *T.* when he ſhould be thereto requeſted, and on ſuch fetching would well and truly pay and ſatisfy to the ſame *T.* the Reſidue of the aforeſaid Price thereof: Yet the aforeſaid *R.* not regarding his Promiſe and Aſſumption aforeſaid, but contriving and fraudulently intending him the ſaid (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, hath not fetched the aforeſaid Lead of and from the ſame *T.* (although by the ſame *T.* the —— Day of —— in the Year aboveſaid, and often afterwards at *Southam* aforeſaid, was required ſo to do; but hath intirely refuſed to fetch the ſame, and hath not paid, or any ways ſatisfied to the ſame (*Plaintiff*) the aforeſaid Reſidue of the Price thereof, to wit, the aforeſaid thirteen Pounds and nine Shillings, or any Part thereof, but hath hitherto altogether refuſed and ſtill

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doth refuſe to pay the ſame to him. **And whereas alſo** the aforeſaid (*Defendant*) afterwards, to wit, the——Day of——in the Year, &c. was indebted to the ſame *T.* in other thirteen Pounds ten Shillings lawful Money of this Kingdom for other Lead by the ſaid *R.* of the ſame *T.* before then bought, and ſo being thereof indebted, the aforeſaid *R.* afterwards, to wit, the ſame Day and Year at *S.* aforeſaid, in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed the ſame *T.* that he the aforeſaid *R.* would well and truly pay and ſatisfy to the ſame *T.* the ſame thirteen Pounds ten Shillings when he ſhould be thereto requeſted: **And whereas** the aforeſaid *R.* in Conſideration that he the aforeſaid *R.* afterwards, to wit, the——Day of——in the Year aboveſaid, at *S.* aforeſaid had bought of the aforeſaid *T.* one other Parcel of Lead, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *T.* to pay him ſo much Money as the aforeſaid Parcel of Lead laſt mentioned, at the Time of buying the ſame was reaſonably worth. And the ſame *T.* avers, that the Parcel of Lead laſt mentioned at the Time of buying the ſame of the aforeſaid *R.* was reaſonably worth another Sum of thirteen Pounds ten Shillings of like lawful Money, to wit, at *S.* aforeſaid, whereof the aforeſaid *R.* then and there had Notice; **Yet** the aforeſaid *R.* not regarding his ſeveral Promiſes and Aſſumptions aforeſaid laſt mentioned, but contriving and fraudulently intending the ſame *T.* in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid, or any way ſatisfied the aforeſaid ſeveral Sums of Money laſt mentioned, Com. Pleas.

Com. Pleas. or any Part thereof, to the ſame *T.* (although the aforeſaid *R.* by the ſame *T.* afterwards, to wit, the firſt Day of *November* in the Year aboveſaid, and often afterwards, at *S.* aforeſaid hath been required ſo to do,) but hath hitherto altogether refuſed, and ſtill doth refuſe to pay him the ſame, to the Damage of him the ſaid *T.* Twenty Pounds; And therefore he brings his Suit, *&c.*

On Retainer to work.

York, to wit, G. *W.* late of, *&c.* was attached to anſwer unto *W. B.* of a Plea of Treſpaſs on the Caſe, *&c.* And whereupon the ſame (*Plaintiff*) by *D. R.* his Attorney complains, That **whereas** he the ſame (*Plaintiff*) and one *H. M.* on the —— Day of —— at, *&c.* had retained him the ſaid (*Defendant*) to work for the ſaid (*Plaintiff*) and *H.* for one whole Year then next following, to wit, to work one Week for the ſaid (*Plaintiff*,) and another Week for the ſaid *H.* by Turns, and ſucceſſively, as they ſhould happen, upon which the ſame (*Defendant*) then and there, to wit, the aforeſaid — Day of —— at, *&c.* in Conſideration that he the ſame (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the aforeſaid (*Defendant*) then and there had aſſumed upon himſelf, and then and there had faithfully promiſed the ſame (*Defendant*) that he the ſame (*Plaintiff*) would well and truly pay to the ſame (*Defendant*) Thirty-one Shillings for every Week he the ſame (*Defendant*) ſhou'd work as aforeſaid for the ſame (*Plaintiff*):

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The ſame (*Defendant*) likewiſe aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the ſame (*Defendant*) would work for the ſame (*Plaintiff*) every other Week for one whole Year then next following, to wit, the firſt Week with the aforeſaid (*Plaintiff*,) and the next Week with the aforeſaid *H.* and ſo by Turns for every Week for the one Year aforeſaid; Yet the aforeſaid (*Defendant*) not regarding his Promiſes and Aſſumptions aforeſaid, but contriving and fraudulently intending the ſame (*Defendant*) in this Particular craftily and ſubtilly to deceive and defraud, at any Time within the one Year next after the Promiſe and Aſſumption aforeſaid, hath not worked for the ſame (*Plaintiff*) (although the ſame (*Defendant*) afterwards, to wit, the —— Day of ——at, (*&c.*) by the ſame (*Plaintiff*) was required ſo to do) but hath abſolutely refuſed to work for the ſame (*Plaintiff*); whereupon the ſame (*Plaintiff*) ſaith, That he is injured, and hath Damage to the Value of Forty Pounds; And therefore he brings his Suit, *&c.* Com. Pleas.

For a Husband and Wife on a Wager won by the Wife.

York, to wit, T. *F. &c.* was attached to anſwer unto *W. B.* and *M.* his Wife, of a Plea of Treſpaſs upon the Caſe; And whereupon the ſame *W.* and *M.* by *D. R.* his Attorney complains, That whereas the ſame *W.* for the Space of one Year now laſt paſt, and more, hath been, and now is a com-

Com. Pleas. mon Brewer, and hath exerciſed that Art and Occupation for the Time aforeſaid, at, (&c.) by himſelf, his Wife aforeſaid and Servants: And whereas alſo on the —— Day of —— at, &c. the aforeſaid *T.* aſſerted to the ſame *M.* That ſhe the ſame *M.* to avoid the Payment of the Exciſe due to the ſaid Lord the King, had guiled Ale in the Chamber of one *M. W.* the Wife of *W. W.* in *M.* aforeſaid, which the ſame *M. B.* abſolutely denied, as ſhe well might; upon which it was then and there agreed between her the ſaid *M. B.* and the aforeſaid *T.* for a Wager of Five Pounds apiece to be made between them, and then and there made by either of them to the other of them, to win or loſe under the Condition and Form following, to wit, that if the aforeſaid *M. W.* would affirm and declare that the aforeſaid *M. B.* had guiled Ale in the Chamber of her the ſaid *M. W.* then the ſame *M. B.* ſhould loſe, and he the aforeſaid *T.* ſhould win the Wager aforeſaid; and if the ſame *M. W.* ſhould ſay and declare that the ſame *M. B.* had not guiled Ale in the Chamber of her *M. W.* then he the ſaid *T.* ſhould loſe, and the ſame *M. B.* ſhould win the Wager aforeſaid: And it was then and there further agreed between them *M. B.* and *T.* that each of them ſhould put in the Hands of one *W. T.* ſomething in Part of the Wager aforeſaid, in Form aforeſaid to be won; and thereupon each of them the ſaid *M. B.* and *T.* then and there depoſited in the Hands of the ſame *W. T.* in Part of the Wager Six Pence, by him as aforeſaid to be paid to him or her who ſhould win the Wager: And the aforeſaid *T.* afterwards, to wit, the —— Day

Day of ——, at, (&c.) in Consideration of the Premisses, and also in Consideration that the same *M. B.* at the special Instance and Request of the aforesaid *T.* then and there had declared and affirmed that she would pay to the aforesaid *T.* Four Pounds nineteen Shillings and Six Pence, if he the aforesaid *T.* should win the Wager in Form aforesaid, assumed upon himself, and then and there faithfully promised the same *M. B.* that if the aforesaid *T.* should lose, and the same *M. B.* should win the Wager aforesaid in Form aforesaid, then he the aforesaid *T.* would well and truly pay and satisfy to the same *M. B* Four Pounds nineteen Shillings and Six Pence: And the same *M. B.* and *W.* aver, That the aforesaid *M. W.* afterwards, to wit, the —— Day of —— at, (&c.) upon Notice of the Premisses to her then and there given in the Presence and Hearing as well of the aforesaid *T.* as of her *M. B.* and several others, said and declared (according to the Truth of the Matter) that the said *M. B.* had not guiled any Ale in the Chamber of her *M. W.* by which he the said *T.* lost, and the same *M. B.* won the Wager aforesaid, according to the Form and Effect and true Intention of the Agreement aforesaid: And the aforesaid Four Pounds nineteen Shillings and Six Pence became payable to the same *W.* and *M.* his Wife by the aforesaid *T.* by Virtue of his Promise and Assumption aforesaid; Yet the aforesaid *T.* not regarding his Promise and Assumption aforesaid, but contriving and fraudulently intending them the said *W.* and *M.* in this Behalf craftily and subtilly to deceive and defraud, hath not paid or any way satisfied to the same *W.* and *M.* his

Com. Pleas.

Com. Pleas. his Wife, or either of them, the aforeſaid Four Pounds nineteen Shillings and Six Pence, or any Part thereof (although the ſaid *T.* by them the ſaid *W.* and *M.* the —— Day of —— at, (*&c.*) was required ſo to do,) but hath hitherto altogether refuſed, and ſtill doth refuſe to pay them, or either of them, for the ſame: **And whereas alſo** the aforeſaid *T.* afterwards, to wit, the —— Day of —— at, (*&c.*) was indebted to the ſame *W.* and *M.* in Forty Shillings of lawful Money of *Great Britain*, for Money by the ſame *M. B.* of the aforeſaid *T.* then duly won of and upon one other Wager before that Time made between them the ſaid *M.* and *T.* and being ſo indebted the aforeſaid *T.* on the —— Day of —— at, *&c.* in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed the ſame *W.* and *M.* that he the aforeſaid *T.* would well and truly pay and ſatisfy to them the ſaid *W.* and *M.* the aforeſaid forty Shillings: **Yet** the aforeſaid *T.* not regarding his Promiſe and Aſſumption aforeſaid laſt mentioned, but contriving and fraudulently intending them the ſaid *W.* and *M.* in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid, or any way ſatisfied to them the ſaid *W.* and *M.* or either of them, the aforeſaid forty Shillings or any Part thereof, (although by them the ſaid *W.* and *M.* the —— Day of —— and often afterwards, at *M.* aforeſaid he hath been required ſo to do;) but hath altogether refuſed, and ſtill doth refuſe to pay them the ſame, to the Damage of them the ſaid *W.* and *M.* ten Pounds; And therefore they bring their Suit, *&c.*

A ſpecial

A ſpecial Declaration for Goods ſold.

York, to wit, W. *A.* late of, *&c.* was attached to anſwer unto *J. S.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame (*Plaintiff*) by *D. R.* his Attorney complains, That **whereas** the ſame (*Defendant*) the firſt Day of *May* in the Year, (*&c.*) at, (*&c.*) in Conſideration that the ſame (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the aforeſaid (*Defendant*) had ſold and delivered to the ſaid (*Defendant*) a great Quantity, (to wit, one hundred Yards) of Broad Cloth for five Shillings, and a certain Piece of Shag by him the ſaid (*Defendant*) to the ſaid (*Plaintiff*,) then and there paid and delivered, and thirty-three Shillings lawful Money of *Great Britain*, by the aforeſaid (*Defendant*) to the ſame (*Plaintiff*,) to be paid at the Feaſt of St. *Martin* the Biſhop in Winter then next following, being the ſecond Day of *November* in the Year aboveſaid, aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the aforeſaid (*Defendant*) would well and truly pay and ſatisfy to the ſaid (*Plaintiff*) the ſame thirty-five Shillings at the ſame Feaſt: **Yet** the aforeſaid (*Defendant*) not regarding his Promiſe and Aſſumption aforeſaid, but contriving and fraudulently intending the ſame (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid, or any ways ſatisfied to the ſame (*Plaintiff*) the aforeſaid thirty-five Shillings, or any Part thereof, at the aforeſaid Feaſt of St. *Martin* the Biſhop in Winter, or at any

Com. Pleas. any Time hitherto, (although by him the ſaid (*Plaintiff*) at the ſame Feaſt and often afterwards, at the Caſtle of *York* aforeſaid, he hath been required ſo to do; but hath hitherto altogether refuſed, and ſtill doth refuſe to pay him the ſame: **And whereas alſo** the aforeſaid (*Defendant*) on the ſecond Day of, (*&c.*) at, (*&c.*) was indebted to the ſame (*Plaintiff*) in other thirty-five Shillings of like lawful Money for the Reſidue of the Price of a certain great Quantity of Broad Cloth by the aforeſaid (*Defendant*) of the ſame (*Plaintiff*) before that Time bought and had; and being ſo indebted the aforeſaid (*Defendant*) the ſame Day and Year aboveſaid at the Caſtle of *York* aforeſaid, in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed that he the aforeſaid (*Defendant*) would well and truly pay and ſatisfy to the ſame (*Plaintiff*) the aforeſaid thirty-five Shillings laſt mentioned: **And whereas alſo** the aforeſaid (*Defendant*) on the third Day, (*&c.*) at, (*&c.*) in Conſideration that the ſame (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the ſaid (*Defendant*) had ſold and delivered to the ſame (*Defendant*) divers Goods, Wares and Merchandizes, aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the aforeſaid (*Defendant*) would well and truly pay and ſatisfy to the ſame (*Plaintiff*) ſuch Sums of Money as thoſe Wares and Merchandizes were then reaſonably worth; And the ſame (*Plaintiff*) avers that the ſame Wares and Merchandizes were then reaſonably worth forty-five Shillings of lawful Money of *Great Britain*; **Yet** the aforeſaid (*Defendant*) not regarding his two ſeveral Promiſes

miſes and Aſſumptions aforeſaid laſt mentioned, but contriving and fraudulently intending the ſaid (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid the ſame (*Plaintiff*) or any way ſatisfied to him the aforeſaid two ſeveral Sums of Money in the ſame two laſt Promiſes and Aſſumptions, or any Part thereof, (although, &c.) but hath hitherto altogether refuſed, and ſtill doth refuſe to pay or any way ſatisfy him for the ſame, to the Damage of the ſaid (*Plaintiff*) Ten Pounds; And therefore he brings his Suit, &c. Com. Pleas.

On a ſpecial Agreement for ſale of Barley.

York, to wit, T. *H.* late of, &c. was attached to anſwer *J. M.* of a Plea of Treſpaſs upon the Caſe, &c. And whereupon the ſame (*Plaintiff*) by *D. R.* his Attorney complains, That **whereas** the aforeſaid (*Defendant*) on the ſixth Day of *October* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at the Caſtle of *York* in the County of the City aforeſaid, in Conſideration that the aforeſaid (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the ſaid (*Defendant*) would deliver to the ſame (*Defendant*) ſo much Barley as he the ſame (*Plaintiff*) then had to ſell, aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the aforeſaid (*Defendant*) would well and truly pay and ſatisfy to the ſame (*Plaintiff*) on Demand, ſo much Money a Quarter, for every Quarter of Barley

Com. Pleas. ley ſo by him the ſaid (*Plaintiff*) to the aforeſaid (*Defendant*) to be delivered, as any of the Neighbours of the ſaid (*Plaintiff*) at the Time of the Delivery of the Barley of the ſaid (*Plaintiff*) would ſell Barley for a Quarter: And the ſame (*Plaintiff*) avers, that he, believing the Promiſe and Aſſumption of the aforeſaid (*Defendant*) in Form aforeſaid made, afterwards, to wit, the eleventh Day of *November* in the Year aboveſaid, at the City of *York* aforeſaid, at the like Inſtance and Requeſt of the aforeſaid (*Defendant*) delivered to the ſame (*Defendant*) eleven Quarters of Barley, which ſaid eleven Quarters were ſuch Barley as the ſame (*Plaintiff*) at the aforeſaid Time of making the Promiſe and Aſſumption aforeſaid, had to ſell; And that one *J. F.* of *G.* within the Pariſh of *P.* in the County of *York*, Yeoman, then being a Neighbour of him (*Plaintiff*) upon the ſame eleventh Day of *November* in the Year aboveſaid, ſold to one *P. S.* two Quarters of Barley, at the Rate and Price of twenty-two Shillings a Quarter, for every Quarter thereof, to wit, at the City of *York* aforeſaid, whereof the aforeſaid (*Defendant*) afterwards, to wit, the Day and Year aforeſaid, at the City of *York* aforeſaid, had Notice.

One other Count upon a Quantum meruit *for other eleven Quarters, and Averment of twelve Pounds ten Shillings.*

An Indeb' aſſump' *for other eleven Quarters, and conclude as in others.*

A Special

A Special Declaration, on a Promise to pay what Plaintiff's *Servant should swear was the Price agreed on for Barley, and Charge of the Oath.*

York, to wit, MATHEW *E.* late of, *&c.* was attached to answer unto *H. R.* of a Plea of Trespass upon the Case, *&c.* And whereupon the same (*Plaintiff*) by *D. R.* his Attorney complains, that **whereas** the aforesaid (*Defendant*) on the —— Day of —— at, *&c.* was indebted to the same (*Plaintiff*) in sixty Shillings of lawful Money of *Great Britain*, for Barley sold and delivered before that Time by the said (*Plaintiff*) to the said (*Defendant*); And being so indebted the said (*Defendant*) afterwards, to wit, the —— Day of —— at, (*&c.*) in Consideration thereof, assumed upon himself, and then and there faithfully promised the said (*Plaintiff*) that he the same (*Defendant*) would well and truly pay to the said (*Plaintiff*) the aforesaid sixty Shillings, when he should be afterwards thereto requested: **And whereas also** he the same (*Plaintiff*) afterwards, to wit, the —— Day of —— at, (*&c.*) had sold and delivered to the said (*Defendant*) by one *N. T.* his Servant, four Quarters of Barley, at a certain Price agreed on between them; and whereas also afterwards, to wit, the Day and Year aboveſaid, at, (*&c.*) upon a certain Discourse between them the said (*Plaintiff*) and (*Defendant*) concerning the Price of the aforesaid last mentioned Barley

Com. Pleas. ley, the ſame (*Plaintiff*) did affirm, that the laſt mentioned Barley was ſold at the Price of thirteen Shillings and four Pence a Quarter; and the aforeſaid (*Defendant*) affirmed, that the Barley was ſold at a leſs Price: And thereupon the aforeſaid (*Defendant*) afterwards, to wit, the —— Day of —— at, (*&c.*) in Conſideration that the aforeſaid (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the aforeſaid (*Defendant*) would procure the aforeſaid *N. T.* to give his Oath before any Maſter of the Court of Chancery of the Lord the King, at what Price the aforeſaid four Quarters of Barley were ſold at, aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the ſame (*Defendant*) would well and truly pay and ſatisfy to the ſame (*Plaintiff*) on Demand, ſo much Money as the aforeſaid *N. T.* ſhould ſwear before any Maſter of the Court of Chancery aforeſaid, that the aforeſaid four Quarters of Barley were ſold for, and alſo the Charge of the Oath aforeſaid: And the ſame (*Plaintiff*) avers, that he giving Credit to the laſt mentioned Promiſe and Aſſumption of the ſaid (*Defendant*) at the like ſpecial Inſtance and Requeſt of the ſame (*Defendant*) afterwards, to wit, the —— Day of —— at, (*&c*) did procure the aforeſaid *N. T.* to come before *R B.* at, (*&c.*) and then one of the Maſters of the Court of Chancery aforeſaid, which ſaid *N. T.* then and there made his Affidavit in Writing, ſworn upon the *Holy Evangeliſts* before the ſaid *R B.* that he the ſame *N. T.* being imployed by the aforeſaid (*Plaintiff*) his Maſter, to ſell diverſe Parcels of Corn about the

latter End of the Month of *May* then laſt paſt, ſold to the aforeſaid (*Defendant*) by the Name of *N. C.* late of the City of *York*, Skinner, four Quarters of good and merchantable Barley, at the Rate or Price of thirteen Shillings four Pence a Quarter; and that he the ſame *N. T.* did deliver the aforeſaid Barley to the ſaid (*Defendant*): And the ſame (*Plaintiff*) further ſaith, that the Barley aforeſaid in the Affidavit of the ſaid *N. T.* and the aforeſaid four Quarters of Barley in the laſt Promiſe and Aſſumption aforeſaid before mentioned, are one and the ſame four Quarters of Barley, and not any other; And that the ſame (*Plaintiff*) for the Fees of the Oath aforeſaid, then and there reaſonably did expend three Shillings; and that he the ſame (*Plaintiff*) afterwards, and before the Day of obtaining the original Writ of him the ſaid (*Plaintiff*) in this Behalf, to wit, the ſame Day and Year aboveſaid, at, (*&c.*) ſhewed to the ſame (*Defendant*) the Writing of the Oath aforeſaid, and gave him Notice of the Contents thereof, and then and there requeſted him to pay to the ſame (*Plaintiff*) fifty-three Shillings and four Pence for the Price of the Barley aforeſaid laſt mentioned, and for the Expences of the Oath three Shillings and ſix Pence; Yet the aforeſaid (*Defendant*) not regarding his ſeveral Promiſes and Aſſumptions aforeſaid, but contriving and fraudulently intending him the ſaid (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid, or any way ſatisfied to the ſame (*Plaintiff*) the aforeſaid ſeveral Sums of Money by him above promiſed Com. Pleas.

Com. Pleas. to be paid, amounting in the whole to five Pounds ſixteen Shillings and ten Pence, or any Part thereof, (although, &c.) but hath hitherto abſolutely refuſed, and ſtill doth refuſe to pay, or any ways content, the ſaid (*Plaintiff*) for the ſame, to the Damage of him the ſaid (*Plaintiff*) ten Pounds; And therefore he brings his Suit, &c.

On Promiſe to pay (Plaintiff) *ten Shillings a-piece for all the Sheep he had in the Cuſtody of* J. B.

York, to wit, J. *L.* late of, &c. was attached to anſwer unto *J. W.* of a Plea of Treſpaſs upon the Caſe, &c. whereupon the ſame (*Plaintiff*) by *T. H.* his Attorney complains, that **whereas** the aforeſaid (*Defendant*) the —— Day of —— at, (&c.) in Conſideration that he the ſame (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the aforeſaid (*Defendant*) would ſell to the ſame (*Defendant*) all the Weather Sheep which the aforeſaid (*Plaintiff*) then had under the Care and Cuſtody of one *J. B.* according to the Rate and Price of ten Shillings for every Weather Sheep, the aforeſaid (*Defendant*) aſſumed upon himſelf, and then and there faithfully promiſed the ſaid (*Plaintiff*) that he the ſaid (*Defendant*) would well and truly pay and ſatisfy to the ſaid (*Plaintiff*) ten Shillings of lawful Money of *Great Britain*, for every Weather Sheep which the aforeſaid (*Plaintiff*) then had under the Care and Keeping of the aforeſaid *J. B.* And the ſame

(*Plaintiff*)

(*Plaintiff*) avers, that he the ſame (*Plaintiff*) believing the Promiſe and Aſſumption of the aforeſaid (*Defendant*) then and there, to wit, the ſame Day and Year aboveſaid, at the aforeſaid Inſtance and Requeſt of the aforeſaid (*Defendant*) did ſell to the ſame (*Defendant*) all the Weather Sheep which the aforeſaid (*Plaintiff*) then had under the Care and Keeping of the aforeſaid *J. B.* after the aforeſaid Rate and Price of ten Shillings for every Weather Sheep thereof, and that he the ſame (*Plaintiff*) then had under the Care and Keeping of the aforeſaid *J. B.* nineteen Weather Sheep, and that the Price of the ſaid nineteen Weathers, according to the Rate aforeſaid, amounted in the whole to nine Pounds and ten Shillings, whereof the aforeſaid (*Defendant*) then and there did in Hand pay to the ſame (*Plaintiff*) ix-pence; Yet the aforeſaid (*Defendant*) not regarding his Promiſe and Aſſumption aforeſaid as to the nine Pounds nine Shillings and ix-pence, Reſidue of the aforeſaid nine Pounds and ten Shillings, but contriving and fraudulently intending the aforeſaid (*Plaintiff*) of the aforeſaid nine Pounds nine Shillings and ix-pence craftily and ſubtilly to deceive and defraud, hath not paid to the ſame (*Plaintiff*) the aforeſaid nine Pounds nine Shillings and ix-pence, or any Part thereof, or any way ſatisfied him for the ſame, (although the aforeſaid (*Defendant*) afterwards, to wit, the ſame Day and Year aboveſaid, at, *&c.* and often afterwards, by him the ſaid (*Plaintiff*) was required ſo to do,) but hath hitherto altogether refuſed, and ſtill doth refuſe to pay, or any way content him for the ſame: And

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Com. Pleas. **whereas alſo** the aforeſaid (*Defendant*) afterwards, to wit, the ſame Day and Year aboveſaid, at, (*&c.*) was indebted to the ſame (*Plaintiff*) in other nine Pounds ten Shillings and Six-pence of like lawful Money, for other Weathers before that Time ſold and delivered by the ſaid (*Plaintiff*) to the ſame (*Defendant*) and at his ſpecial Inſtance and Requeſt; and being ſo indebted, *&c.* (*as in others.*)

For Service done by Plaintiff's *Apprentice.*

Cumberland, to wit, *Walter Ludwidge* late of, *&c.* was attached to anſwer *H. S.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *H.* by *D. R.* his Attorney complains, That **whereas** the aforeſaid *W.* on the twenty-fifth Day of *March* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at *W.* in the County aforeſaid, in Conſideration that he the ſaid *H.* at the ſpecial Inſtance and Requeſt of the aforeſaid *W.* would ſuffer one *William Rodger* his Apprentice to ſerve the ſame *W.* in a certain Voyage from the Port of *W.* in the County aforeſaid, unto — in Parts beyond the Seas, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *H.* that he the aforeſaid *W.* would well and truly pay the ſame *H.* ſo much Money as the ſame *H.* for the Service of the aforeſaid *W. R.* his Apprentice in the Voyage aforeſaid reaſonably deſerved to have; and the ſame

ſame *H.* avers, that he the aforeſaid *H.* be- Com. Pleas.
lieving the Promiſe and Aſſumption of the aforeſaid *W.* ſuffered the ſaid *W. R.* his Apprentice to ſerve the aforeſaid *W.* in the Voyage aforeſaid, from the Port of *W.* aforeſaid unto —— aforeſaid, and that the aforeſaid *W. R.* ſerved the aforeſaid *W.* in his Voyage aforeſaid from the aforeſaid twenty-fifth Day of *March* in the Year of our Lord aboveſaid, until the ſeventh Day of *November* then next following, to wit, at *W.* aforeſaid; and that he the aforeſaid *H.* reaſonably deſerved to have from the aforeſaid *W.* for the Service of him the ſaid *W. R.* his Apprentice aforeſaid, for the Time aforeſaid done for him the ſaid *W.* twelve Pounds of lawful Money of this Kingdom, to wit, at *W.* aforeſaid, whereof the aforeſaid *W.* then and there had Notice: **And where-** as the ſame *H.* on the aforeſaid ſeventh Day of *November* in the Year of our Lord One Thouſand ſeven hundred and thirty-two, at the like ſpecial Inſtance and Requeſt of the aforeſaid *W.* by himſelf, and the aforeſaid *W. R.* his Servant, had done and performed for the aforeſaid *W.* diverſe other Works and Labours of him the ſaid *H.* the aforeſaid *W.* in Conſideration thereof, afterwards, to wit, the ſame Day and Year aboveſaid, at *W.* aforeſaid, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *H.* that he the aforeſaid *W.* would well and truly pay and ſatisfy to the ſame *H.* ſo much Money as he the ſame *H.* for the Works and Labours aforeſaid laſt mentioned, by him and the aforeſaid *W. R.* his Servant aforeſaid, for the ſaid *W.* ſo as aforeſaid done and performed, reaſonably

Com. Pleas. ſonably deſerved to have: And the ſame *H.* avers, that he the ſame *H.* for his Works and Labours aforeſaid laſt mentioned, by him and the aforeſaid *W. R.* his Servant aforeſaid, for the ſaid *W.* ſo as aforeſaid done and performed, reaſonably deſerved to have of the aforeſaid *W.* other twelve Pounds of like lawful Money of this Kingdom, to wit, at *W.* aforeſaid, and thereof the aforeſaid *W.* afterwards, to wit, the ſame Day and Year laſt aboveſaid there had Notice; Yet the aforeſaid *W.* not regarding his ſeveral Promiſes and Aſſumptions aforeſaid in Form aforeſaid made, but contriving and fraudulently intending him the ſaid *H.* in this Behalf craftily and ſubtilly to deceive and defraud, hath not hitherto paid to him the ſaid *H.* nor any ways contented to him for the ſame the ſaid ſeveral Sums of Money, nor any Part thereof, (although the aforeſaid *W.* afterwards, to wit, the ſame Day and Year laſt aboveſaid, and often afterwards at *W.* aforeſaid by him the ſaid *H.* was required ſo to do,) but hath hitherto altogether refuſed, and ſtill doth refuſe to pay, or any way to content him for the ſame, to the Damage of him the ſaid *H.* forty Pounds; And therefore he brings his Suit, *&c.*

For Barley ſold and delivered.

Middleſex, to wit, E. *D.* late of *A.* in the County aforeſaid, Labourer, was attached to anſwer unto *H. A.* of a Plea of Treſpaſs upon the Caſe, *&c.* and whereupon the ſame *H.* by *D. R.* his Attorney complains

complains, That **whereas** the aforeſaid *E.* on the firſt Day of *April* in the Year of our Lord One thouſand ſeven hundred and thirty-two at *A.* in the County aforeſaid, in Conſideration that the ſame *H.* at the ſpecial Inſtance and Requeſt of the aforeſaid *E.* had then and there bargained and ſold to the aforeſaid *E.* twelve Quarters and two Buſhels of Barley, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *H.* that he the aforeſaid *E.* would well and truly pay and ſatisfy to the ſame *H.* ſo much Money as the aforeſaid twelve Quarters and two Buſhels of Barley were reaſonably worth, when he ſhould be thereto afterwards required: And the ſame *H* avers, That the aforeſaid twelve Quarters and two Buſhels of Barley at the Time of the Bargain and Sale of the ſame were reaſonably worth twelve Pounds three Shillings and Six Pence, of which the ſaid *E.* then and there had Notice from the ſaid *H.* **And whereas alſo** the aforeſaid *E.* on the Tenth Day of *April* in the Year of our Lord One thouſand ſeven hundred and thirty-two was indebted to the ſame *H.* in other twelve Pounds three Shillings and Six Pence for certain other Barley by the aforeſaid *E.* of the ſame *H.* before that Time bought and had, and being ſo indebted, the aforeſaid *E.* on the aforeſaid tenth Day of *April* in the Year aboveſaid at *A.* aforeſaid, in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed the ſame *H.* that he the aforeſaid *E.* would well and truly pay and ſatisfy unto the ſame *H.* the ſame twelve Pounds three Shillings and ſix Pence laſt mentioned, when he ſhould be thereto required: **Yet** the

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Com. Pleas. aforeſaid *E.* not regarding his ſeveral Promiſes and Aſſumptions aforeſaid, but contriving and fraudulently intending him the ſaid *H.* in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid or any way ſatisfied the aforeſaid ſeveral Sums of Money, or any Part thereof, to the ſame *H.* (altho' he the ſaid *E.* by him the ſaid *H.* on the twentieth Day of *April* in the Year aboveſaid, and often afterwards at *A.* aforeſaid, had been required ſo to do,) but hath hitherto altogether refuſed, and ſtill doth refuſe to pay him for the ſame, to the Damage of him the ſaid *H.* twenty Pounds; And thereupon he brings his Suit, *&c.*

For Wares ſold and Work done.

Middleſex, to wit, R. *S.* late of, *&c.* was attached to anſwer unto *M. S.* of a Plea of Treſpaſs upon the Caſe, *&c.* and whereupon the ſame *M.* by *D. R.* his Attorney complains, That **whereas** the aforeſaid *R.* on the firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-two at *J.* in the ſaid County, in Conſideration that the ſame *M.* at the ſpecial Inſtance and Requeſt of the aforeſaid *R.* had ſold and delivered to the aforeſaid *R.* divers Goods, Wares and Merchandizes, and alſo had done and performed for the aforeſaid *R.* divers Works and Buſineſs, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *M.* that he the aforeſaid *R.* as well all ſuch Sums of Money as the ſaid Goods, Wares and Merchandizes aforeſaid were reaſonably worth, as ſuch Sums

Sums of Money as the ſame *M.* for the Works and Buſineſs aforeſaid had reaſonably deſerved to have, would well and truly pay and ſatisfy to the ſaid *M.* when he ſhould be thereto required: And the ſame *M.* avers, That the Goods, Wares and Merchandizes aforeſaid at the Time of the Sale and Delivery of the ſame were reaſonably worth nine Pounds ten Shillings; and that the ſame *M.* for the Works and Buſineſs aforeſaid reaſonably deſerved to have forty Shillings, of which the ſaid *R.* then and there had Notice from the ſaid *M.* **And whereas alſo** the aforeſaid *R.* on the ſecond Day of *May* in the Year aboveſaid was indebted to the ſame *M.* in eleven Pounds ten Shillings, as well for divers other Goods, Wares and Merchandizes by him the ſaid *R.* of the ſame *M.* before that Time bought, had and received, as for certain other Buſineſs and Work by the ſaid *M.* for the aforeſaid *R.* and at his Requeſt before then done and performed: And being ſo indebted the aforeſaid *R.* on the aforeſaid ſecond Day of *May* in the Year aboveſaid at *J.* aforeſaid, in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed the ſame *M.* that he the aforeſaid *R.* would well and truly pay and ſatisfy to the ſame *M.* the aforeſaid eleven Pounds ten Shillings, when he ſhould be thereto requeſted: **Yet** the aforeſaid *R.* not regarding his ſeveral Promiſes and Aſſumptions aforeſaid, but contriving and fraudulently intending him the ſaid *M* in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid the aforeſaid ſeveral Sums of Money, or any Part thereof, to the ſame *M.* &c. (*as in others.*) Com. Pleas.

For

For a Taylor, for Clothes and mending of Clothes.

Middleſex, to wit, A. *B.* late of *Weſtminſter*, Gent. was attached to anſwer unto *C. D.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *C.* by *D. R.* his Attorney complains, that **whereas** the aforeſaid *A.* on the firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at *Weſtminſter* aforeſaid, in Conſideration that the ſame *C.* being a Taylor, at the ſpecial Inſtance and Requeſt of the aforeſaid *A.* had fitted, cloathed and mended divers Veſtments for the aforeſaid *A.* with certain Wares by him the ſaid *C.* in that Behalf found and provided, aſſumed upon himſelf and then and there faithfully promiſed the ſame *C.* that he the aforeſaid *A.* would well and truly pay and ſatisfy to the ſame *C.* ſo much Money as the ſame *C.* for his Labour in and about the Premiſſes, and for the Wares aforeſaid, reaſonably deſerved to have: And the ſame *C.* avers, that he reaſonably deſerved to have for his Labour in and about the Premiſſes, and for the Wares aforeſaid, twenty-four Pounds of lawful, (*&c.*) whereof the ſaid *A.* afterwards, to wit, the Day and Year aboveſaid, had Notice: **And whereas alſo** the aforeſaid *A.* afterwards, to wit, the ſame firſt Day of *May* in the Year aboveſaid, at *Weſtminſter* aforeſaid, was indebted to the ſame *C.* in other twenty-four Pounds of lawful Money of *Great Britain*

tain, as well for his Work and Labour in and about the fitting, cloathing and mending certain other Garments of the aforeſaid *A.* by him the ſaid *C.* for the aforeſaid *A.* and at his Requeſt before then done and performed, as for certain other Wares in and about thoſe Garments uſed by the ſaid *C.* for the aforeſaid *A.* and at his Requeſt bought and provided; And being ſo indebted the aforeſaid *A.* the Day and Year aboveſaid, at *Weſtminſter* aforeſaid, in Conſideration thereof, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *C.* that he the aforeſaid *A.* the aforeſaid twenty-four Pounds laſt mentioned would well and truly pay and ſatisfy to the ſame *C.* when he ſhould be thereto required; **Yet** the aforeſaid *A.* not regarding his ſeveral Promiſes and Aſſumptions aforeſaid, but contriving and fraudulently intending the ſaid *C.* craftily and ſubtilly, *&c.* (*as before.*) Com. Pleas.

For not delivering a Mare bought, Part of the Price being paid by the Plaintiff, *and the Reſidue to be paid on Delivery.*

Middleſex, to wit, D. *N.* of, *&c.* was attached to anſwer unto *W. B.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſaid *W.* by *D. R.* his Attorney complains, That **whereas** the aforeſaid (*Defendant*) on the tenth Day of *June* in the Year of our Lord One thouſand ſeven hundred and thirty-two, at *High-*

gate

Com. Pleas. *gate* in the County aforeſaid, had bargained and ſold to the ſame (*Plaintiff*) a certain Mare of him the ſaid (*Defendant*) for ten Pounds, to wit, to be paid by him the ſaid (*Plaintiff*) to the aforeſaid (*Defendant*) the ſame (*Defendant*) afterwards, to wit, the aforeſaid tenth Day of *June* in the Year aboveſaid, at *Highgate* aforeſaid, in Conſideration of twelve Pence in Part of the Price aforeſaid, by him the ſaid (*Plaintiff*) to the aforeſaid (*Defendant*) then and there in Hand paid, and alſo in Conſideration that the ſame (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the aforeſaid (*Defendant*) had then and there aſſumed upon himſelf, and faithfully promiſed the aforeſaid (*Defendant*) to pay the aforeſaid (*Defendant*) nine Pounds nineteen Shillings, Reſidue of the Price aforeſaid, upon Delivery of the Mare aforeſaid by him the ſaid (*Defendant*) to the ſame (*Plaintiff*) aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the aforeſaid (*Defendant*) would well and truly deliver to the ſame (*Plaintiff*) the Mare aforeſaid; Yet the aforeſaid (*Defendant*) not regarding his Promiſe and Aſſumption aforeſaid, but contriving and fraudulently intending the ſaid (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, hath not delivered the Mare aforeſaid to the ſame (*Plaintiff*) although by him the ſaid (*Plaintiff*) on the twentieth Day of *June* in the Year aforeſaid, at *Highgate* aforeſaid, he was required ſo to do; and the ſame (*Plaintiff*) then and there was ready to pay to the ſame (*Defendant*) the aforeſaid nine Pounds nineteen Shillings,

lings, Reſidue of the Price aforeſaid, but he hath hitherto altogether refuſed, and ſtill doth refuſe to deliver the ſame to him, to the Damage of the ſaid (*Plaintiff*) twenty Pounds; And thereof he brings his Suit, *&c.* Com. Pleas.

For an Executor againſt an Executor, for Meat and Drink provided by Plaintiff's *Teſtator for* Defendant's *Teſtator*, &c.

Middleſex, to wit, W. *D.* late of, *&c.* and *J. G.* late of, *&c.* Executors of the laſt Will and Teſtament of *J. A.* were attached to anſwer unto *H. B.* and *F.* his Wife, Executors of the laſt Will and Teſtament of *M. A.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame (*Plaintiffs*) by *T. H.* their Attorney complain, that **whereas** the aforeſaid *J.* in his Life-time, to wit, the twenty-fifth Day of *January* in the Year of our Lord one thouſand ſeven hundred and twenty-nine, at *Whetſtone* in the County aforeſaid, in Conſideration that the aforeſaid *M.* in his Life-time, at the ſpecial Inſtance and Requeſt of the aforeſaid *J.* had found and provided for the aforeſaid *J.* in his Life-time Meat, Drink, Waſhing and Lodging, for the Space of two Years then paſt, at diverſe Days and Times, and alſo during the ſame Time, had found and provided for diverſe Perſons, Friends of the aforeſaid *J.* Meat, Drink and Entertainment, aſſumed upon himſelf, and then and there faithfully

Com. Pleas. faithfully promiſed the ſame *M.* in his Life-time, that he the aforeſaid *J.* would well and truly pay and ſatisfy to the ſaid *M.* ſo much Money as the Meat, Drink, Waſhing and Loding, and Entertainment aforeſaid, were reaſonably worth, when he ſhould be afterwards thereto requeſted: And the ſame (*Plaintiffs*) aver, that the Meat, Drink, Waſhing, Lodging and Entertainment aforeſaid, by the aforeſaid *M.* in his Life-time ſo as aforeſaid found and provided for the ſaid *J. A.* in his Life-time, were reaſonably worth forty Pounds good and lawful Money of *Great Britain*, of which the ſaid *J. A.* in his Life-time from the ſaid *M.* in his Life-time had Notice: And whereas alſo the aforeſaid *J.* in his Life-time, to wit, the twenty-ſixth Day of *January* in the Year aboveſaid, was indebted to the ſame *M.* in his Life-time in other forty Pounds for certain other Meat, Drink, Waſhing and Lodging, by the aforeſaid *M.* in his Life-time, for the aforeſaid *J.* in his Life-time, and at his Requeſt, before that Time found and provided; And ſo being indebted the aforeſaid *J.* in his Life-time, to wit, the aforeſaid twenty-ſixth Day of *January* in the Year aboveſaid, at *Whetſtone* aforeſaid in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed the aforeſaid *M.* in his Life-time, that he the aforeſaid *J.* would well and truly pay and ſatisfy the aforeſaid forty Pounds laſt mentioned to the ſame *M.* when he ſhould be afterwards thereto required; Yet the aforeſaid *J.* in his Life-time, and the aforeſaid (*Defendants*) ſince the Death of the ſaid *J.* not regarding the ſaid

several Promises and Assumptions of the afore- Com. Pleas.
said *J.* in Form aforesaid made, but contriving and fraudulently intending the aforesaid *M.* in his Life-time, and the said (*Plaintiff*) since the Death of the said *M.* in this Behalf craftily and subtilly to deceive and defraud, neither they nor either of them have or hath paid, or any way satisfied the aforesaid several Sums of Money, or any Part thereof, to the aforesaid *M.* in his Life-time, or to the same (*Plaintiffs*) since the Death of the said *M.* (although the aforesaid (*Defendants*) after the Death of the aforesaid *J.* to wit, the twentieth Day of *March* in the Year of our Lord One thousand seven hundred and thirty-one, and often afterwards, at *W.* aforesaid, by them the said (*Plaintiffs*) after the Death of the aforesaid *M.* were required so to do;) but have hitherto refused to pay them the same, and the aforesaid (*Defendants*) still do absolutely refuse to pay them the said (*Plaintiffs*) the same, to the Damage of the said (*Plaintiffs*) forty Pounds; And thereupon they bring their Suit. And they bring here into Court the Letters Testamentary of the aforesaid *M.* by which it fully appears to the Court here, that the said *H.* and *F.* are Executors of the Last Will and Testament aforesaid; and have the Administration thereof, *&c.*

In

In Consideration that Plaintiff *would forbear suing the* Defendant *and his Wife for a Debt of Ten Pounds due to the* Plaintiff *from the* Defendant's *Wife whilst she was single,* Defendant *promised to give* Plaintiff *a Bond for Payment thereof.*

Middlesex, to wit, J. C. late of *Westminster* Gent. and *L.* his Wife were attached to answer unto *O. B.* of a Plea of Trespass upon the Case, *&c.* And whereupon the same *O.* by *T. H.* his Attorney complains, That **whereas** the aforesaid *J.* and *L.* his Wife, on the second Day of *March* in the Year of our Lord One thousand seven hundred and thirty-one, at *Westminster* aforesaid, were indebted to the same *O.* in ten Pounds of lawful Money of *Great Britain*, for Money by the aforesaid *L.* whilst she was single, of the same *O.* before that Time borrowed, and which the aforesaid *L.* whilst she was single had promised to pay: And the aforesaid *J.* and *L.* being so as aforesaid indebted to the same *O.* in the aforesaid ten Pounds, the said *O.* had intended to prosecute a Suit in Law against the aforesaid *J.* and *L.* of and for the same ten Pounds, whereof the aforesaid *J.* had then and there Notice and thereupon the aforesaid *J.* the aforesaid second Day of *March* in the Year of our Lord One thousand seven hundred and thirty-one aboveſaid, at *Westminster* aforesaid, in Consideration

ideration that the ſame *O.* at the ſpecial In- Com. Pleas.
ſtance and Requeſt of the aforeſaid *J.* would
forbear to proſecute a Suit in Law againſt the
aforeſaid *J.* and *L.* his Wife for the ſaid ten
Pounds, aſſumed upon himſelf, and then and
there faithfully promiſed the ſame *O.* that he
the aforeſaid *J.* would give his Bond for the
Payment of the aforeſaid ten Pounds to the
ſame *O.* And the ſame *O.* avers, that he, be-
lieving the ſaid Promiſe and Aſſumption of
the aforeſaid *J.* at the Time of making there-
of, hath hitherto totally forbore to proſecute
a Suit in Law againſt the aforeſaid *J.* and
L. and each of them, of or for the aforeſaid
ten Pounds: And the ſame *O.* afterwards, to
wit, the tenth Day of *March* in the Year
aboveſaid, at *Weſtminſter* aforeſaid, tendred to
the ſame *J.* a Bond for the aforeſaid *J.* to
ſeal, and deliver to the ſame *O.* for Payment
of the aforeſaid ten Pounds to the ſame *O.* and
then and there required him to ſeal, and as
his Deed to deliver the Bond aforeſaid to
the ſame *O.* Yet the aforeſaid *J.* not re-
garding his Promiſe and Aſſumption aforeſaid,
but contriving and fraudulently intending the
ſaid *O.* in this Behalf craftily and ſubtilly to
deceive and defraud, hath not ſealed, and as
his Deed delivered, or gave to the ſame *O.*
the Bond aforeſaid, or any other Bond for
Payment of the aforeſaid ten Pounds, but
hath hitherto wholly refuſed, and ſtill doth
refuſe to do the ſame, to the Damage of the
ſaid *O.* twenty Pounds; And thereupon he
brings his Suit, &c.

For a Mare sold; Six-pence in Hand paid to the Plaintiff; *Four Shillings and Sixpence to be paid on Delivery, and a Bond to be given for the Remainder.* Defendant *refused to take the Mare, and perform the Promise.*

Middlesex, to wit, W. *B.* late of the Parish of St. *Andrew Holbourn* in the County of *Middlesex*, Corn-Chandler, was attached to answer unto *D. N.* of a Plea of Trespass upon the Case, *&c.* And whereupon the same *D.* by *T. H.* his Attorney complains, That **whereas** the said *D.* on the thirtieth Day of *June* in the Year of our Lord One thousand seven hundred and thirty-one at *Islington* in the County aforesaid, had bargained and sold to the aforesaid *W.* a certain Bay Mare of him the said *D.* for Seven Pounds five Shillings of lawful Money of *Great Britain*, to be paid by the aforesaid *W.* to the same *D.* in Form following, to wit, Sixpence thereof in Hand, and four Shillings and Sixpence thereof on the Morrow of the Day aforesaid, and the remaining seven Pounds on the Day of the Marriage of him the said *W.* whereof the aforesaid *W.* then and there had paid in Hand to the aforesaid (*Plaintiff*) Six-pence; the aforesaid (*Defendant*) in Consideration thereof, and in Consideration that the same (*Plaintiff*) at the special Instance and Request of the aforesaid *W.* then and there had undertaken and faithfully promised the aforesaid *W.* to deliver to the aforesaid *W.* the Mare aforesaid on the Morrow

Morrow of the Day aforeſaid, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *D.* that he the aforeſaid *W.* would pay to the ſame *D.* the aforeſaid four Shillings and Sixpence on the Morrow aforeſaid; and on the ſame Morrow by his Bond would become bound in a reaſonable Sum of Money for Payment of the aforeſaid ſeven Pounds to the ſame *D.* at the Day of Marriage of the aforeſaid *W.* And the ſame *D.* avers, that he believing the ſaid Promiſe and Aſſumption of the aforeſaid *W.* afterwards, to wit, on the aforeſaid Morrow of the Day aforeſaid at *Iſlington* aforeſaid, offered to deliver to the aforeſaid *W.* the Mare aforeſaid, which the aforeſaid *W.* then and there utterly refuſed to receive from the ſame *D.* And the ſame *D.* then and there required the aforeſaid *W.* to pay to the ſame *D.* the aforeſaid four Shillings and Sixpence, and by his Bond to become bound to the ſame *D.* for Payment of the aforeſaid ſeven Pounds to the ſame *D.* at the Day of Marriage of the aforeſaid *W.* Yet the aforeſaid *W.* not regarding his Promiſe and Aſſumption aforeſaid, but contriving and fraudulently intending the ſaid *D.* in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid the aforeſaid four Shillings and Sixpence, or any Part thereof to the ſame *D.* nor by any Bond of the aforeſaid *W.* became bound to the ſame *D.* for Payment of the aforeſaid ſeven Pounds at the Day of Marriage of the aforeſaid *W.* according to his Promiſe and Aſſumption aforeſaid; but hath hitherto abſolutely refuſed, and ſtill doth refuſe to pay the four Shillings and Sixpence to the ſame *D.* or make him any ſuch Bond; to the Damage of him the

Com. Pleas.

Com. Pleas. said *D.* Ten Pounds; And thereof he brings his Suit, *&c.*

In Consideration that Plaintiff *would marry* M. (Defendant's *Daughter*) Defendant *promised to give him Sixty Pounds.*

York, to wit, R. *S.* late of *Leeds* in the County of *York*, Yeoman, was attached to answer *G. L.* of a Plea of Trespass upon the Case, *&c.* And whereupon the same *G.* by *T. H.* his Attorney complains, That **whereas** the aforesaid (*Defendant*) on the first Day of *July* in the Year of our Lord One thousand seven hundred and thirty-one at *Leeds* aforesaid, in Consideration that the same (*Plaintiff*) then and there being single and unmarried, at the special Instance and Request of the aforesaid (*Defendant*) would marry *M. S.* the Daughter of him the said (*Defendant*,) assumed upon himself, and then and there faithfully promised the same (*Plaintiff*) that he the aforesaid (*Defendant*) would give to the same (*Plaintiff*) Sixty Pounds: And the same (*Plaintiff*) avers, That he believing the said Promise and Assumption of the aforesaid (*Defendant*) afterwards, to wit, on the first Day of *April* in the Year of our Lord One thousand seven hundred and thirty-two at *Leeds* aforesaid, took to Wife the aforesaid *M.* and a Marriage between him the said (*Plaintiff*) and the aforesaid *M.* was then and there in due Manner had and solemnized, according to the Rites and Ceremonies of the Church of *England*: Nevertheless

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nevertheless the aforesaid (*Defendant*) not regarding his Promise and Assumption aforesaid, but contriving and fraudulently intending him the said (*Plaintiff*) in this Behalf craftily and subtilly to deceive and defraud, hath not paid, or any Way contented the aforesaid Sixty Pounds, or any Part thereof, to the same (*Plaintiff*,) (although by him the said (*Plaintiff*) on the tenth Day of *June* in the Year last aforesaid, and often afterwards at *Leeds* aforesaid, he was requested so to do;) but hath hitherto altogether refused, and still doth refuse to pay the same to him, to the Damage of him the said (*Plaintiff*) of one hundred Pounds; And thereof he brings his Suit, *&c.*

Against an Administrator, in Consideration that the Plaintiff *had delivered to the Intestate two* East-India *Bonds, he was to be accountable for the same upon Demand.*

London, to wit, E. *S.* late of *London*, Widow, Administratrix of all and singular the Goods and Chattels, Rights and Credits, which were of *R. S.* her late Husband deceased, who died intestate, was attached to answer unto *J. S.* of a Plea of Trespass upon the Case, *&c.* And whereupon the same *J.* by *T. H.* her Attorney complains, That whereas the same *J.* on the twenty-third Day of *September* in the Year of our Lord One thousand seven hundred and twenty-nine at *London*, to wit, in the Parish of the *Blessed Mary of the Arches* in the Ward of *Cheap*,

Com. Pleas. at the ſpecial Inſtance and Requeſt of him the ſaid *R.* in his Life-time had delivered to the aforeſaid *R.* an *Eaſt-India* Bond, being the proper Bond of her the ſaid *J.* numbered *Nine hundred fifty-eight*, under the common Seal of the *Engliſh* Company trading to the *Eaſt-Indies* for ſecuring the Payment of One hundred Pounds lawful Money of this Realm, and the Intereſt thereof by that Company: And one other *Eaſt-India* Bond likewiſe, being the proper Bond of her the ſaid *J.* numbered *Nine thouſand ſeven hundred fifty-ſeven*, under the Seal aforeſaid of the *Engliſh* Company trading to the *Eaſt-Indies*, for ſecuring the Payment of another One hundred Pounds of like lawful Money of this Realm, and the Intereſt thereof by that Company; the aforeſaid *R. S.* in Conſideration thereof in his Life-time afterwards, to wit, the ſame Day and Year aboveſaid at *London* aforeſaid, in the Pariſh and Ward aforeſaid, by his certain Note in Writing, bearing Date the ſame Day and Year aboveſaid, ſubſcribed with the proper Hand and Name of him the ſaid *R. S.* in his Life-time promiſed to be accountable to the ſame *J.* for the ſame ſeveral Bonds upon Demand: Yet the aforeſaid *R.* in his Life-time, and the aforeſaid *E.* after the Death of him the ſaid *R.* (to which ſaid *E.* after the Death of the aforeſaid *R.* Adminiſtration of all the Goods and Chattels, Rights and Credits which were of the aforeſaid *R.* at the Time of his Death, after the Death of him the ſaid *R.* at *London* aforeſaid, in the Pariſh and Ward aforeſaid, in due Form of Law was committed) not regarding the ſaid Promiſe and Aſſumption of the aforeſaid *R.* by him in Form aforeſaid

aforeſaid made, but contriving and fraudulently intending the ſame *J.* in this Behalf to deceive and defraud, hath not given or rendered, nor hath either of them given or rendered to the ſame *J.* any Account of the ſeveral Bonds aforeſaid, nor either of them; nor have they or either of them delivered the Bonds aforeſaid, or either of them to the ſame *J.* (altho' the aforeſaid *R.* in his Life time, by the ſame *J.* hath been often requeſted ſo do: And although the aforeſaid *E.* by the ſame *J.* after the Death of the aforeſaid *R.* to wit, the fifteenth Day of *July* in the Year of our Lord One thouſand ſeven hundred and thirty-two, and often afterwards at *London* aforeſaid in the Pariſh and Ward aforeſaid was required ſo to do.) But the aforeſaid *R.* in his Life-time, and the aforeſaid *E.* after his Death have abſolutely refuſed to give and render an Account of the ſeveral Bonds aforeſaid to the ſame *J.* and to deliver to the ſame *J.* the ſeveral Bonds aforeſaid; and the aforeſaid *E.* ſtill denies and refuſes to give and render to the ſame *J.* an Account of the ſeveral Bonds aforeſaid, and to deliver to the ſame *J.* the ſeveral Bonds aforeſaid: **And whereas** the aforeſaid *R.* in his Life-time, to wit, the aforeſaid twenty-third Day of *September* in the Year of our Lord One thouſand ſeven hundred and twenty-nine aboveſaid at *London* aforeſaid, in the Pariſh and Ward aforeſaid, was indebted to the ſame *J.* in Two hundred and ten Pounds of lawful Money of *Great Britain* for the like Sum of Money of her the ſaid *J.* by him the ſaid *R.* in his Life-time for the ſame *J.* and to the Uſe of her the ſaid *J.* before that Time had and received; Com. Pleas.

Com. Pleas. and being ſo indebted, the ſame *R.* in his Life-time, in Conſideration thereof, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *J.* that he the ſame *R.* would well and truly pay and ſatisfy to the ſame *J.* the aforeſaid Two hundred and ten Pounds, when he ſhould be thereto afterwards requeſted: **Nevertheleſs**, the aforeſaid *R.* in his Life-time, and the aforeſaid *E.* after the Death of him the ſaid *R.* not regarding the Promiſe and Aſſumption aforeſaid laſt mentioned of the aforeſaid *R.* by him in his Life-time ſo as aforeſaid made, but contriving and fraudulently intending the ſame *J.* in this Behalf craftily and ſubtilly to deceive and defraud, have not paid, nor hath either of them paid the aforeſaid Two hundred and ten Pounds, or any Part thereof to the ſame *J.* nor have they or either of them ſatisfied her any way hitherto for the ſame, (although the aforeſaid *R.* in his Life-time by her the ſaid *J.* hath been often requeſted ſo to do;) and although the aforeſaid *E.* after the Death of the aforeſaid *R.* to wit, the ſame Day and Year laſt aboveſaid, and often afterwards at *London* aforeſaid, in the Pariſh and Ward aforeſaid by the ſame *J.* was required ſo to do; but the aforeſaid *R.* in his Life-time, and the aforeſaid *E.* after the Death of him the ſaid *R.* have abſolutely refuſed to pay the aforeſaid two hundred and ten Pounds, or any Part thereof, to the ſame *J.* or any way to ſatisfy her for the ſame, and the aforeſaid *E.* ſtill refuſes to pay the ſame to the ſaid *J.* to the Damage of her the ſaid *J.* three hundred Pounds; And thereupon they bring their Suit, *&c.*

Againſt

Againſt a Husband to deliver up a Bond made to the Wife whilſt ſingle; the Money being paid to the Husband.

York, to wit, T. *B.* late of, (*&c.*) was attached to anſwer unto *J. A.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame (*Plaintiff*) by *T. H.* his Attorney complains, That **whereas** he the ſame (*Plaintiff*) and one *W. A.* the fifth Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-one, by his certain Writing Obligatory before that Time made, had ſtood holden and bound to one *Anne W.* whilſt ſhe was ſingle in ſixty-five Pounds, with Condition to the ſame Bond underwritten, for the true Payment of thirty-two Pounds ten Shillings at a certain Day in the ſame Condition contained, which ſaid *A.* the aforeſaid (*Defendant*) before the aforeſaid fifth Day of *May* took for his Wife: And whereas alſo the aforeſaid (*Defendant*) afterwards, to wit, the Day and Year aforeſaid at *London* aforeſaid, in the Pariſh and Ward aforeſaid, in Conſideration that the ſame (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the aforeſaid (*Defendant*,) then and there had paid to the ſame (*Defendant*) the aforeſaid thirty-two Pounds ten Shillings, aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the ſame (*Defendant*) would ſurrender and deliver up the aforeſaid Bond to the ſame (*Plaintiff*,) to be cancelled when he ſhould be thereto afterwards requeſted: **Nevertheleſs** the aforeſaid (*Defendant*)

Com. Pleas. *fendant*) not regarding his Promiſe and Aſſumption aforeſaid in Form aforeſaid made, but contriving and fraudulently intending the ſaid (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, and load him with the Payment of the aforeſaid ſixty-five Pounds, hath not ſurrendered nor delivered up the aforeſaid Bond to the ſame (*Plaintiff*,) (although the aforeſaid (*Defendant*) by him the ſaid (*Plaintiff*) afterwards, to wit, the twentieth Day of *May* in the Year aboveſaid, at, (*&c.*) was required ſo to do,) but hath hitherto altogether refuſed and ſtill doth refuſe to ſurrender or deliver up the ſaid Bond to him, to the Damage of him (*Plaintiff*) eighty Pounds: And thereof he brings his Suit, *&c.*

For grazing of Cows.

York, to wit, G. *W.* late of, (*&c.*) was attached to anſwer unto *W. R.* of a Plea of Treſpaſs upon the Caſe, (*&c.*) And whereupon the ſame (*Plaintiff*) by *T. H.* his Attorney complains, That **whereas** the aforeſaid *G.* on the twenty-ninth Day of *September* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at, (*&c.*) in the County aforeſaid, in Conſideration that he the ſame *W.* at the ſpecial Inſtance and Requeſt of the ſaid *G.* had grazed for the ſame *G.* three Cows in a certain Cloſe of the ſaid *W.* called *N.* in *W.* aforeſaid for the Space of two Months, the ſame *G.* aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the ſame (*Defendant*) would well and truly

truly pay and ſatisfy to the ſame (*Plaintiff*) ſo much lawful Money of *Great Britain* as he the aforeſaid (*Plaintiff*) hath reaſonably deſerved to have for the grazing of the Cows aforeſaid for the Space aforeſaid, when he ſhould be afterwards thereto requeſted; and the ſame (*Plaintiff*) avers, That he reaſonably deſerved to have for grazing the Cows aforeſaid, for the Time aforeſaid, forty Shillings of lawful Money of *Great Britain*: And whereas alſo the aforeſaid (*Defendant*) afterwards, to wit, the — Day of —— in the Year aboveſaid at *W.* aforeſaid was indebted to the ſame (*Plaintiff*) in other forty Shillings of lawful Money of *Great Britain* for the grazing of certain Cattle for the ſame (*Defendant*,) and at his Requeſt by the ſame (*Plaintiff*) before that Time at *W.* aforeſaid grazed; and being ſo indebted the ſame (*Defendant*) in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed, that he the ſame (*Defendant*) would well and truly pay and ſatisfy to the ſame (*Plaintiff*) the aforeſaid forty Shillings laſt mentioned, when he ſhould be afterwards thereto required; Yet the aforeſaid (*Defendant* not regarding his ſeveral Promiſes and Aſſumptions aforeſaid in Form aforeſaid made, but contriving and fraudulently intending the ſaid (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid to the ſame (*Plaintiff*) the aforeſaid ſeveral Sums of Money, *&c.* (*as above.*)

Com. Pleas.

Againſt

Againſt the Husband, Executor of his Wife, for Money due by the Wife whilſt ſhe was ſingle.

York, to wit, R. *K.* late of, *&c.* Executor of the laſt Will and Teſtament of *E.* his late Wife, was attached to anſwer unto *T. T.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame *T.* by *J. W.* his Attorney complains, that **whereas** the ſame *E.* in her Life-time whilſt ſhe was ſingle, to wit, the twentieth Day of *May* in the Year, (*&c.*) at, (*&c.*) was indebted to the ſame *T.* in ſeven Pounds of lawful Money of *Great Britain*, for the Service of the ſaid *T.* in and about the Buſineſs of the ſaid *E.* and at her Inſtance and Requeſt before then done, and for Money by the ſaid *T.* to the Uſe of the ſaid *E.* before that Time diſburſed and laid out, and being ſo indebted the ſame *E.* in her Life-time, and whilſt ſhe was ſingle, to wit, the ſame twentieth Day of *May* in the Year aboveſaid, at, (*&c.*) aſſumed upon herſelf, and then and there faithfully promiſed the ſame *T.* to pay to the ſame *T.* the aforeſaid ſeven Pounds; **Yet** the aforeſaid *E.* whilſt ſhe was ſingle, and the aforeſaid (*Defendant*) and *E.* after the Marriage was celebrated between them, and the aforeſaid (*Defendant*) after the Death of her the ſaid *E.* not regarding the Promiſe and Aſſumption of the aforeſaid *E.* in Form aforeſaid made, but contriving and fraudulently intending the ſame *T.* in this Behalf craftily and ſubtilly to deceive and defraud

defraud, have not paid, nor hath either of them paid the aforeſaid ſeven Pounds to the ſame *T.* (although the ſame *E.* whilſt ſhe was ſingle, to wit, the firſt Day of *July* in the Year aboveſaid, and the aforeſaid (*Defendant*) and *E.* after the Marriage was celebrated between them, to wit, the ſecond Day of *May* in the Year aboveſaid, and the aforeſaid (*Defendant*) after the Death of the ſaid *E.* to wit, the tenth Day of *March* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at, (*&c.*) by the ſame (*Plaintiff*) hath been required ſo to do,) but they have hitherto altogether refuſed, and the aforeſaid (*Defendant*) ſtill refuſes to pay the ſame to him, to the Damage of the ſaid (*Plaintiff*) ten Pounds; And thereupon he brings his Suit, *&c.* Com. Pleas.

For Attorney's Fees againſt Defendant, *late a Maid, now a Widow.*

York, to wit, F. *L.* Widow, lately called *F. F.* Spinſter, was attached by a Writ of the Lord the King of Privilege iſſuing out of the Court here, to anſwer unto *T. H.* Gent. one of the Attornies of the Court of the Lord the King of the Bench, according to the Liberties and Privileges of the ſame Court for ſuch Attornies, and other Miniſters of the ſame Court uſed and approved of in the ſame, from the Time whereof the Memory of Man is not to the contrary, of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame (*Plaintiff*) in his proper Perſon complains, That

Com. Pleas. That **whereas** the aforeſaid *F.* on the —— Day of —— at, *&c.* was indebted to the ſame (*Plaintiff*) in twenty-eight Pounds of lawful Money of *Great Britain*, as well for Money by the ſaid (*Plaintiff*) then and long before being one of the Attornies of the Court of the Lord the King of the Bench here, in and about the Proſecution of a certain Suit in Law againſt one *G. B.* by him the ſaid (*Plaintiff*) for the aforeſaid *F.* by the Name of *F. F.* and at her Requeſt and Retainer in the ſame Court of the ſaid Lord the King here before then proſecuted, as Attorney for her the ſaid *F.* laid out and diſburſed, as for Labour and Fees of him the ſaid (*Plaintiff*) for the Proſecution of that Suit, the aforeſaid *F.* afterwards, to wit, the Day and Year aboveſaid, at, (*&c.*) aſſumed upon herſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that ſhe the aforeſaid *F.* would well and truly pay and ſatisfy to the ſame (*Plaintiff*) the aforeſaid twenty-eight Pounds, when ſhe ſhould be thereto afterwards required: **And whereas alſo** the aforeſaid *F.* afterwards, to wit, the —— Day of —— at, (*&c.*) accounted together with the ſame (*Plaintiff*) as well of diverſe Sums of Money by the ſame (*Plaintiff*) for the aforeſaid (*Defendant*) and at her Requeſt in and about the Proſecution of a Suit in Law for the aforeſaid (*Defendant*) before then owing and laid out, and to the ſame (*Plaintiff*) due and unpaid, as of diverſe Sums of Money to the ſame (*Plaintiff*) then likewiſe owing from the ſaid *F. F.* for Fees, and for the Labour of the ſaid (*Plaintiff*) in and about the Proſecution of the aforeſaid

ſaid Suit, and upon that Account the aforeſaid *F.* was found in Arrear towards the ſame (*Plaintiff*) in other twenty-eight Pounds of like lawful Money; and being ſo found in Arrear the aforeſaid (*Defendant*) afterwards, to wit, the aforeſaid —— Day of —— at, (*&c.*) in Conſideration thereof, aſſumed upon herſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that ſhe the aforeſaid *F.* would well and truly pay and ſatisfy to the ſame (*Plaintiff*) the aforeſaid laſt mentioned twenty-eight Pounds, when ſhe ſhould be thereto afterwards required: **Nevertheleſs** the aforeſaid *F.* not regarding her ſeveral Promiſes and Aſſumptions aforeſaid, but contriving and fraudulently intending him the ſaid (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, hath not paid the aforeſaid Sums of Money, or any Part thereof, to the ſame (*Plaintiff*) (although the aforeſaid *F.* afterwards, to wit, the —— Day of —— at, (*&c.*) by the ſaid (*Plaintiff*) hath been required ſo to do,) but hath hitherto abſolutely refuſed, and ſtill doth refuſe to pay him, or any Ways to ſatisfy him for the ſame, to the Damage of the ſaid (*Plaintiff*) one hundred Pounds; And thereof he brings his Suit, *&c.* Com. Pleas.

A:

At the Suit of an Executrix of an Attorney who was Agent for the Defendant (*another Attorney*) *in* Chancery, Exchequer, King's Bench *and* Common Pleas.

Middleſex, to wit, G. S. late of, (*&c.*) Gent. one of the Attornies of the Court of the Lord the King of the Bench, was attached to anſwer *E. D.* Widow, Executrix of the laſt Will and Teſtament of *W. D.* Gent. lately one of the Attornies of the Court of the Lord the King of the Bench, of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame (*Plaintiff*) by *T. H.* her Attorney complains, that **whereas** the aforeſaid (*Defendant*) in the Life-time of the aforeſaid *W. D.* to wit, the firſt Day of *November* in the Year of our Lord One thouſand ſeven hundred and thirty, at *Weſtminſter* in the County aforeſaid, in Conſideration that the ſame *W. D.* (then and long before being one of the Attornies of the Court of the Lord the King of the Bench here,) at the ſpecial Inſtance and Requeſt of the aforeſaid (*Defendant*) (being likewiſe one of the Attornies of the ſame Court,) had well and truly proſecuted, ſolicited, practiſed and took Care of diverſe Writs of the Lord the King, and Buſineſs and Suits in Law and Equity in the Court of Chancery of the Lord the King, and in the Court of his Exchequer, and in the Court of the Lord the King, before the King himſelf, and in the Court of the Lord the

King of the Bench here, for the aforeſaid (*Defendant*) as one of the Attornies of the ſame Court here, on his Behalf, and ſeveral Perſons, his Clients, for a long Time, to wit, from the Term of St. *Michael* in the Year, (*&c.*) until the aforeſaid firſt Day of, (*&c.*) aboveſaid, as Attorney in the Court here, and as Agent and Solicitor in the other Courts aforeſaid for the ſame (*Defendant*) and on that Occaſion had diſburſed, laid out and paid for the ſaid (*Defendant*) many Sums of Money, and had received ſome Money from the ſame (*Defendant*) on that Behalf, aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*W.*) in his Life-time, that he the aforeſaid (*Defendant*) would well and truly pay and ſatisfy to the ſame *W.* when he ſhould be thereto afterwards required, as well all ſuch Sums of Money which the aforeſaid *W.* ſo as aforeſaid had diſburſed, laid out and paid, as he reaſonably deſerved to have for his Fees, Care and Labour in and about the Premiſſes, over and beſides the Money by him ſo received: And the ſame (*Plaintiff*) avers, That the aforeſaid *W.* in his Life-time, before the Promiſes and Aſſumptions aforeſaid made, at, (*&c.*) on that Occaſion as aforeſaid, had diſburſed, laid out and paid many Sums of Money, amounting in the whole to fifty Pounds of lawful Money of *Great Britain*, and that he the ſame *W.* reaſonably deſerved to have for his Fees, Care and Labour in and about the Premiſſes, of the aforeſaid (*Defendant*) eighteen Pounds three Shillings and Six-pence of like lawful Money, which ſaid ſeveral Sums of Money amount in Com. Pleas.

Com. Pleas. the whole to ſixty-eight Pounds three Shillings and Six-pence of lawful Money of *Great Britain*, beſides the Money received by the ſaid *W.* in that Behalf: **And whereas alſo** the aforeſaid (*Defendant*) on the Day and Year aboveſaid, at, &c. was indebted to the ſame *W.* in his Life-time in ſixty-eight Pounds three Shillings and Six-pence of like lawful Money of *Great Britain*, for Money by him (being then and long before as aforeſaid one of the Attornies of the Court of the Lord the King of the Bench here, (as ſuch Attorney and Clerk in the Court here, and Solicitor and Agent for the ſame (*Defendant*) being as aforeſaid another Attorney of the ſame Court,) at his Requeſt, and according to his Order and Appointment, in and about diverſe Buſineſs, Actions and Suits in Law and Equity of him the ſaid (*Defendant*) and his Clients in the ſeveral Courts aforeſaid, before that Time laid out, diſburſed and paid, and for the Fees, Care and Labour of him the ſaid *W.* in the Proſecution, Solicitation and Practice of thoſe Buſineſſes, Actions and Suits by him upon the Retainer, and on the Behalf of the ſaid (*Defendant*) before then done and performed; and being ſo indebted the aforeſaid (*Defendant*) afterwards, to wit, the ſame Day and Year aboveſaid, at, (&c.) in Conſideration thereof, aſſumed upon himſelf, and then and there faithfully promiſed the aforeſaid (*William*) in his Life-time, that he the aforeſaid (*Defendant*) would well and truly pay and ſatisfy to the ſame *W.* when he ſhould be thereto afterwards required, the ſame ſixty-eight Pounds three Shillings and Six pence laſt mentioned;

mentioned; Yet the aforeſaid (*Defendant*) not regarding his ſeveral Promiſes and Aſſumptions aforeſaid in Form aforeſaid made, but contriving and fraudulently intending the aforeſaid *W.* in his Life-time, and the aforeſaid (*Defendant*) after the Death of the ſaid *W.* of the aforeſaid ſeveral Sums of Money to deceive and defraud, the aforeſaid ſeveral Sums of Money, or any Part thereof, to the aforeſaid *William* in his Life-time, or to the ſame (*Plaintiff*) after the Death of the ſaid *W.* hath not paid, or any way contented them for the ſame, but hath altogether refuſed to pay the ſame to the aforeſaid *W.* in his Life, and to the ſame (*Plaintiff*) after the Death of the ſaid *W.* and ſtill refuſes to pay the ſame (*Plaintiff*); wherefore the ſame (*Plaintiff*) ſaith that ſhe is injured, and hath Damage to the Value of One hundred Pounds; And thereupon ſhe brings her Suit: And ſhe brings here into Court the Letters Teſtamentary of him the ſaid *W.* by which it fully appears to the Court here, that ſhe the ſaid (*Plaintiff*) is Executrix of that Will, and hath the Adminiſtration thereof, *&c.* Com. Pleas.

For Proctor's Fees in the Spiritual Court, by an Adminiſtrator.

York, to wit, J. *W.* late of, *&c.* was attached to anſwer unto *W. D.* Adminiſtrator of the Goods and Chattels which were *G. D.*'s deceaſed, of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame (*Plaintiff*) by *T. H.* his Attorney complains,

Com. Pleas. That **whereas** the aforeſaid *G.* in his Life-time, to wit, the firſt Day of *February* in the Year of our Lord One thouſand ſeven hundred and thirty, and for the Space of ſeveral Years before then was a Proctor of the Spiritual Court of *York*; And whereas alſo the aforeſaid (*Defendant*) afterwards, to wit, in the Term of the Holy *Hillary* in the Year of our Lord aboveſaid, at the City of *York* aforeſaid, had retained the aforeſaid *G.* to be the Proctor of the ſaid (*Defendant*) in the Spiritual Court aforeſaid, at the City of *York* aforeſaid, to proſecute and defend for the ſame (*Defendant*) as his Proctor, a certain Suit and Controverſy then depending in the Spiritual Court aforeſaid, between the aforeſaid (*Defendant*) and one *E. M.* the aforeſaid (*Defendant*) in Conſideration thereof, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *G.* in his Life-time, that he the aforeſaid (*Defendant*) would well and truly pay and ſatisfy to the ſame *G.* when he ſhould be thereto afterwards required, ſo much Money as the ſame *G.* in his Life-time, about the Proſecution and Defence of the Suit and Controverſy aforeſaid had laid out and diſburſed and alſo ſo much Money as the ſame *G.* for his Fees and Labour in the Proſecution and Defence of that Suit and Controverſy ſhould deſerve to have: And the ſame (*Plaintiff*) avers, that he the aforeſaid *G.* in his Life-time believing the Promiſe and Aſſumption of the ſaid (*Defendant*) in the ſame Term of the Holy *Hillary* in the Year of our Lord aboveſaid, and alſo for three Terms then next following, had been a Proctor in the Spiritual

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Court aforeſaid, and proſecuted and defended the Suit and Controverſy aforeſaid for the ſame four Terms, for the aforeſaid (*Defendant*) in the ſame Spiritual Court aforeſaid, and laid out and diſburſed for the aforeſaid (*Defendant*) for the aforeſaid four Terms four Pounds ten Shillings in and about the Proſecution and Defence of the Suit and Controverſy aforeſaid to divers Officers, Clerks and Miniſters in the ſame Spiritual Court aforeſaid, and deſerved to have for his Fees and Labour in the Proſecution and Defence of the Suit aforeſaid for the aforeſaid four Terms other four Pounds and ten Shillings, to wit, at the City of *York* aforeſaid, whereof the aforeſaid (*Defendant*) afterwards, to wit, the Day and Year aboveſaid, then and there had Notice: **And whereas alſo** the aforeſaid (*Defendant*) afterwards, to wit, the twelfth Day of *December* in the Year of our Lord One thouſand ſeven hundred and thirty-one at the City of *York* aforeſaid, was indebted to the ſame *G.* in his Life-time in Nine Pounds of lawful Money of *Great Britain*, as well for divers Sums of Money by the aforeſaid *G.* in his Life-time laid out and expended in and about the Proſecution and Defence of certain Suits and Controverſies in the Spiritual Court aforeſaid, at the ſpecial inſtance and Requeſt of the ſaid (*Defendant*,) by the aforeſaid *G.* in his Life-time, at the City of *York* aforeſaid, before that Time proſecuted and defended, as for Work and Labour of him the ſaid *G.* in his Life-time in that Behalf done and performed by the ſaid *G.* in his Life-time in and about the proſecuting and defending the ſaid Suits and Controverſies; And being ſo indebted the aforeſaid (*Defendant*) afterwards, to

Com. Pleas.

Com. Pleas. wit, the twelfth Day of *December* in the Year aboveſaid at the City of *York* aforeſaid, in Conſideration thereof aſſumed upon himſelf, and then and there faithfully promiſed the ſame *G.* in his Life-time that he the aforeſaid (*Defendant*) would well and truly pay and ſatisfy to the ſame *G.* the aforeſaid Nine Pounds laſt mentioned when he ſhould be afterwards thereto required: **And whereas** the aforeſaid (*Defendant*) afterwards, to wit, the Day and Year laſt aboveſaid at the City of *York* aforeſaid, in Conſideration that the ſame *G.* in his Life-time at the ſpecial Inſtance and Requeſt of him the ſaid (*Defendant*) had proſecuted and defended as a Proctor in the Spiritual Court aforeſaid, a certain Suit and Controverſy depending in the Court aforeſaid between *E. W.* Son of the ſaid (*Defendant*) againſt the aforeſaid *E. M.* for the Space of four Terms then next following, aſſumed upon himſelf, and then and there faithfully promiſed the ſame *G.* in his Life time that he the ſame (*Defendant*) ſo much Money as the ſame *G.* in his Life-time in and about the Defence of the Suit and Controverſy laſt mentioned had laid out and diſburſed, and alſo ſo much Money as the ſame *G.* for his Fees and Labour about the ſame had deſerved to have to the ſame *G.* when he ſhould be thereto afterwards required, would well and truly pay and ſatisfy: And the ſame (*Plaintiff*) avers, that the aforeſaid *G.* in his Life-time giving Credit to the Promiſe and Aſſumption of him the ſaid (*Defendant*) proſecuted and defended the Suit and Controverſy aforeſaid in the Court aforeſaid for the Space of four Terms, to wit, from the Term of the

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Holy Hillary then next following, and also for three other Terms then next following; during which Time he laid out and expended seven Pounds in and about the Defence and Prosecution of the Suit and Controversy aforesaid to divers Officers, Clerks and Attendants of the Court aforesaid for the aforesaid four Terms; and deserved forty Shillings for his Proctor's Fees and Labour, to wit, at the City of *York* aforesaid: **Nevertheless**, the aforesaid (*Defendant*) not regarding his several Promises and Assumptions aforesaid in Form aforesaid made, but contriving and fraudulently intending the aforesaid *G.* in his Life time, and him the said (*Plaintiff*) after the Death of the same *G.* in this Behalf craftily and subtilly to deceive and defraud, hath not paid, or any ways satisfied the aforesaid several Sums of Money, or any Part thereof, to the aforesaid *G.* in his Life-time, or to the same (*Plaintiff*) after the Death of the said *G.* (to whom Administration of all the Goods and Chattels which were the aforesaid *G.*'s by *T. W.* Doctor of Divinity, Dean of the Cathedral Church, and Metropolitan of the Blessed *Peter* of *York*, and Head of the same Church, to whom all, and all Kind of Jurisdiction, Spiritual and Ecclesiastical, which to the Archbishop of *York* in full Seat belonged, that Seat now empty is manifestly known to belong, from the ancient Foundation, to wit, the twenty-eighth Day of *May* in the Year of our Lord One thousand seven hundred and thirty-two at the City of *York* aforesaid was granted;) although by the same *G.* often in his Life-time, and by the said (*Plaintiff*) after the Death of the said *G.* and after Administra- Com. Pleas.

Com. Pleas. tion to him as aforeſaid granted, to wit, the firſt Day of *September* in the Year of our Lord One thouſand ſeven hundred and thirty-two, and often afterwards, at the City of *York* aforeſaid hath been demanded; but hath hitherto abſolutely refuſed to pay them, and ſtill refuſes to pay the ſame to the ſaid (*Plaintiff*,) to the Damage of the ſaid (*Plaintiff*) One hundred Pounds; And thereof he brings his Suit, *&c.*

For loading of Hay and Corn.

York, to wit, R. *J.* late of, *&c.* was attached to anſwer *L. F.* of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame (*Plaintiff*) by *T. H.* his Attorney complains, That **whereas** the aforeſaid (*Defendant*) on the two and twentieth Day of *October* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at, (*&c.*) in Conſideration that he the ſame (*Plaintiff*) at the ſpecial Inſtance and Requeſt of him the ſaid (*Defendant*,) with his Waggon and Horſes had carried for the ſame (*Defendant*) divers Wain-Loads, to wit, twenty Wain-Loads of Corn from the Field called the *Town-Field* of (*Defendant*) aforeſaid to the Houſe of the aforeſaid (*Defendant*) in *B.* aforeſaid, the aforeſaid (*Defendant*) aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the aforeſaid (*Defendant*) would well and truly pay and ſatisfy to the ſame (*Plaintiff*) ſuch Sums of Money as the aforeſaid (*Plaintiff*) reaſonably deſerved for Carriage

Carriage of the Corn aforeſaid. And the ſame (*Plaintiff*) avers, that he hath reaſonably deſerved for Carriage of the Corn aforeſaid twenty Shillings of lawful Money of *Great Britain*, to wit, at, (*&c.*) whereof the aforeſaid (*Defendant*) afterwards, to wit, the Day and Year aboveſaid, at, (*&c.*) had Notice: **And whereas alſo** the aforeſaid (*Defendant*) afterwards, to wit, on the aforeſaid twenty-ſecond Day of *October* in the Year aboveſaid, at, (*&c.*) was indebted to the ſame (*Plaintiff*) in other twenty Shillings of like lawful Money for carrying other twenty Wain-Loads of Corn for the ſame (*Defendant*,) and at his Requeſt by the aforeſaid (*Plaintiff*) with his Waggon and Horſes before that Time done and performed; and being ſo indebted the aforeſaid (*Defendant*) afterwards, to wit, the ſame two and twentieth Day of, (*&c.*) at, (*&c.*) aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the aforeſaid (*Defendant*) would well and truly pay and ſatisfy to the ſame (*Plaintiff*) the laſt mentioned twenty Shillings when he ſhould be afterwards thereto requeſted: **Nevertheleſs** the aforeſaid (*Defendant*) not regarding his ſeveral Promiſes and Aſſumptions aforeſaid, but contriving, *&c.* (*as in others*)

Com. Pleas.

By

By a Tutor in the UNIVERSITY *of* Cambridge, *for Inſtruction and Board.*

Cambridge, to wit, J. *A.* late of, *&c.* Clerk, was attached to anſwer unto *J. C.* Clerk, of a Plea of Treſpaſs upon the Caſe, *&c.* And whereupon the ſame (*Plaintiff*) by *T. H.* his Attorney complains, That **whereas** the aforeſaid (*Defendant*) on the twenty-fifth Day of *May* in the Year of our Lord One thouſand ſeven hundred and twenty-nine, at *Cambridge* aforeſaid, put himſelf to be one of the Scholars of the College of St. *Peter*, vulgarly called *Peter-Houſe College*, in the Univerſity of *Cambridge*, afterwards, to wit, the ſame Day and Year, at *Cambridge* aforeſaid, in Conſideration that the ſame (*Plaintiff*) at the ſpecial Inſtance and Requeſt of the ſaid (*Defendant*) would be the Tutor of him the ſaid (*Defendant*) to take Care of and inſtruct in Arts and Sciences, and do and perform the reſt which to the Office of a Tutor of him the ſaid (*Defendant*) belonged, and provide Meat, Drink and other Neceſſaries for the ſame (*Defendant*), aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the ſame (*Defendant*) would well and truly pay and ſatisfy to the ſame (*Plaintiff*) when he ſhould be thereto afterwards required, as well ſuch Sums of Money as the ſame (*Plaintiff*) ſhould lay out and diſburſe for Meat, Drink and other Neceſſaries aforeſaid, for the ſame (*Defendant*)

(*Defendant*) as ſuch Sums of Money which the ſame (*Plaintiff*) ſhould reaſonably deſerve to have for his Care and Labour in that Behalf: And the ſame (*Plaintiff*) avers, that he giving Credit to the faithful Promiſes and Aſſumptions of the aforeſaid (*Defendant*) afterwards, to wit, the ſame twenty-fifth Day of *May* in the Year aboveſaid, at *Cambridge* aforeſaid, at the aforeſaid ſpecial Inſtance and Requeſt of the aforeſaid (*Defendant*) was Tutor of the ſaid (*Defendant*) and as his Tutor took Care of and did inſtruct in Arts the ſame (*Defendant*) for the Space of three Years, and Half a Year then next following, and did and performed the reſt which belonged to the Office of a Tutor of the ſame (*Defendant*) for the Time aforeſaid; and that he reaſonably deſerved on that Account to have from the ſaid (*Defendant*) twenty Pounds of lawful Money of *Great Britain*: And the ſaid (*Plaintiff*) alſo avers, That for the Time aforeſaid he did find and provide for the ſaid (*Defendant*) Meat, Drink, and diverſe other Neceſſaries, for which he the ſaid (*Plaintiff*) did lay out and expend the Sum of ſeventy-eight Pounds of lawful Money; of all which ſaid Premiſſes the ſaid (*Defendant*) from the ſaid (*Plaintiff*) had Notice: And whereas alſo the aforeſaid (*Defendant*) afterwards, to wit, the firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-two aboveſaid, at the City of *York* aforeſaid, was indebted to the ſame (*Plaintiff*) in ninety Pounds of like lawful Money, for other Money by the ſaid (*Plaintiff*) for the ſame (*Defendant*) at the like Inſtance and Requeſt of the

Com. Pleas.

Com. Pleas. the aforeſaid (*Defendant*) as Tutor of the ſaid (*Defendant*) in the College aforeſaid, before that Time laid out and diſburſed; and being ſo indebted the aforeſaid (*Defendant*) afterwards, to wit, the ſame firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-two aboveſaid, at C. aforeſaid, in Conſideraation thereof, aſſumed upon himſelf, and then and there faithfully promiſed the ſame (*Plaintiff*) that he the aforeſaid (*Defendant*) would well and truly pay and ſatisfy to the ſame (*Plaintiff*) the aforeſaid Sum laſt mentioned, when he ſhould be thereto afterwards required: Nevertheleſs the aforeſaid (*Defendant*) in no wiſe regarding his ſeveral Promiſes and Aſſumptions aforeſaid in Form aforeſaid made, but contriving and fraudulently intending him the ſaid (*Plaintiff*) in this Behalf craftily and ſubtilly to deceive and defraud, hath not as yet paid the aforeſaid ſeveral Sums of Money to the ſame (*Plaintiff*) (although the aforeſaid (*Defendant*) afterwards, to wit, the ſame firſt Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-two aboveſaid, and often afterwards, at the City of *York* aforeſaid, by the aforeſaid (*Plaintiff*) was requeſted ſo to do; but he hath hitherto altogether refuſed, and ſtill doth refuſe to pay the ſame to him, to the Damage of the ſaid (*Plaintiff*) One hundred and twenty Pounds; And thereupon he brings his Suit, &c.

Cove-

Covenant.

On a Leaſe for Tithes.

York, to wit, THomas *P.* late of, *&c.* otherwiſe called *T. P.* late of, *&c.* (*as in the Leaſe*) was ſummoned to anſwer unto *H. D.* Clerk of a Plea, That he perform to him the Covenant between them made, according to the Force, Form and Effect of certain Indentures thereof made between them, *&c.* And whereupon the ſaid *H.* by *D. R.* his Attorney ſaith, that **whereas** by a certain Indenture made at *Owram* in the County aforeſaid, the twenty-third Day of *April* in the Year of our Lord One thouſand ſeven hundred twenty-nine, between the ſaid *H.* by the Name of *Henry Denton*, Clerk, Rector of *Barniſton*, and Vicar of *Owram* in the County of *York*, of the one Part, and the aforeſaid *T.* by the Name of *T. P.* of *Owram*, aforeſaid, Gent. of the other Part, which other Part, ſigned with the Seal of the aforeſaid *T.* the ſame *H.* brings here into Court, the Date of which is the ſame Day and Year; *It is witneſſed*, That the ſame *H.* for and in Conſideration of the Rent and Covenants in and by the ſame Indenture reſerved and expreſſed, on the Part and Behalf of the ſaid *T. P.* his Executors, Adminiſtrators and Aſſigns, to be paid, done and performed, did demiſe, grant, ſet and to Farm let, and by the ſame Indenture hath demiſed, granted, ſet and to Farm let unto the

Com. Pleas. the aforeſaid *T. P.* his Executors, Adminiſtrators and Aſſigns, all that the Vicaridge-houſe of *Owram* aforeſaid, and all the Glebe Lands to the ſame Vicaridge of *Owram* aforeſaid belonging, and all the Tithes of Graſs, Corn and Hay, Wool and Lambs, Offerings, Oblations, leſſer and ſmall Tithes whatever, coming, growing, renewing and accruing within the Vicaridge, Village-fields, and Rectory of *Owram* aforeſaid, or the titheable Places thereof; and alſo all ſuch Tithes whatſoever, within the Lordſhip of *Owram* aforeſaid, as did belong or appertain to the Rectory or Parſonage of *Barniſtone* aforeſaid, and all other Tithes and Rights whatſoever of the ſame *H. B.* in *Owram* aforeſaid, with their and every of their Rights, Members and Appurtenances, except out of the ſame Demiſe to the ſame *H. B.* all Rent of Tithes on Compoſition, called a Compoſition by the Rent, payable yearly of the Fee, after the Feaſt of St. *John the Baptiſt*, called *Midſummer*, to have and to hold the ſaid Vicaridge-houſe, Tithes, and all and ſingular other the Premiſſes in the Indenture aforeſaid mentioned, or intended by the ſame Indenture to be granted and demiſed, with their and every of their Appurtenances, except as before excepted, unto the ſaid *T. P.* his Executors, Adminiſtrators and Aſſigns, from the Feaſt of St. *Mark* the Evangeliſt, then next following the Date of the Indenture aforeſaid, for and during the Term of two Years from thence next enſuing, fully to be compleated, expired and ended; yielding and paying yearly and every Year during the ſaid Term: And the ſaid *T. P.* for himſelf, his Executors

For Payment of the Rent.

Executors and Adminiſtrators, hath covenanted promiſed and agreed by that Indenture, to yield and pay yearly and every Year during the ſaid Term, to the ſame *H. B.* or his Aſſigns, the yearly Rent or Sum of thirty-ſix Pounds, good and lawful Money of *Great Britain*, at the two Feaſts or Times of Payment in the Year, to wit, the Feaſts of St. *Martin* the Biſhop, in Winter, and St. *Mark* the Evangeliſt, by even and equal Portions; the firſt Payment to begin and be made at the Feaſt of St. *Martin* the Biſhop, in Winter, then next enſuing the Date of the Indenture aforeſaid: And the ſaid *T. P.* for himſelf, his Heirs, Executors and Adminiſtrators, hath covenanted, promiſed and agreed to and with the ſame *H B.* his Executors, Adminiſtrators and Aſſigns, in Manner following, to wit, that he the ſaid *T. P.* his Executors, Adminiſtrators and Aſſigns, from Time to Time during the ſaid Term of two Years, by that Indenture granted, would well and ſufficiently repair, ſuſtain, maintain and keep the ſaid Vicaridge-houſe, and all Out-houſes, Barns, Stables and Walls thereunto belonging, with good and ſufficient Repairs, Fences and Amendments of all Kinds, (the great Foundation-Wall only excepted,) and at the End of the ſaid Term would leave and reſign the ſame in ſuch good and ſufficient Repair to the ſaid *H. B.* or his Aſſigns; and alſo would pay and bear all Church-Taxes, Poor-Rates, Conſtable, Pariſh, and ſmall Dues and Rates for all the Premiſſes aforeſaid during the whole ſaid Term, and alſo from Time to Time during the ſaid Term, would duly pay and

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Leſſee covenants to repair, and leave Premiſſes in good Repair.

Covenant to pay Church-Taxes.

Com. Pleas. and perform all the ſeveral Covenants and Things as by that Indenture amongſt other Things more fully appears: By Virtue of which Demiſe the aforeſaid *T.* on the Morrow of the Feaſt of St. *Mark* the Exangeliſt in the Year aboveſaid, entered upon the aforeſaid Tenements and Premiſſes, with the Appurtenances, by the ſame Indenture above demiſed, and was thereof poſſeſſed, and had and occupied all and ſingular the ſame Tenements and Premiſſes, with the Appurtenances, for the whole Term aforeſaid: And although the ſame *H.* hath well and truly performed, fulfilled and kept all and ſingular the Covenants, Grants and Agreements in the Indenture aforeſaid contained, on his Part to be performed, fulfilled or kept, according to the Form and Effect of that Indenture; alſo proteſting, that the aforeſaid *T. P.* hath not performed, fulfiled or kept any of the Covenants or Agreements in the ſaid Indenture contained on his Part to be performed, fulfilled or kept, according to the Form and Effect of that Intenture, the ſame *H.* avers that at the Feaſt of Saint *Mark* the Evangeliſt in the Year, *&c.* eighteen Pounds of the Rent aforeſaid, for Half a Year ending at the ſame Feaſt, to the ſame *H.* were in Arrear and not paid; and that the aforeſaid *T.* hath not paid to the ſame *H.* the aforeſaid eighteen Pounds at the aforeſaid Feaſt of Saint *Mark* the Evangeliſt in the Year, *&c.* aboveſaid, nor ever afterwards hitherto, which he ought to have paid to him at the ſame Feaſt, according to the Form and Effect of the Indenture aforeſaid; And the ſame *H.* further ſaith, that

That Defendant hath not performed any of the Covenants.

First Breach. *Hath not paid Rent.*

at the End of the Term aforeſaid, and for Half a Year then laſt paſt, the Hedges and Fences of the demiſed Premiſſes, to wit, fifty Perches of Hedges, and forty Perches of Fencing of the demiſed Premiſſes, were in great Decay for Want of Reparation and Amendment thereof, contrary to the Form and Effect of the Indenture aforeſaid; and that at the End of the Term aforeſaid the aforeſaid *T.* hath not yielded up to the ſame *H.* or his Aſſigns the Poſſeſſion of the aforeſaid Houſe, but the Poſſeſſion thereof afterwards, and until the Day of ſuing out the original Writ of the ſaid *H.* to wit, the eleventh Day of *May* in the Year aboveſaid, and alſo hitherto againſt the Will of the ſaid *H.* had held and kept, againſt the Form and Effect of that Indenture: And ſo the ſame *H.* ſaith, that the aforeſaid *T.* although he hath often required the Covenants aforeſaid with the ſame *H.* in this Behalf to be made, hath not kept to the ſame *A.* but broke the ſame, and hath hitherto denied, and ſtill doth deny to keep the ſame to him; wherefore he ſaith that he is injured, and hath Damage to the Value of ten Pounds; And thereupon he brings his Suit, *&c.*

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Second Breach. *Hath not repaired the Fences and Hedges.*

Third Breach. *Hath not left Poſſeſſion at the End of the Term.*

Upon a Demiſe of a Capital Meſſuage for ninety-nine Years, if Leſſor and Leſſee ſhall ſo long live.

Cheſter, to wit, *Richard Leving*, late of, *&c.* Knight, otherwiſe called, *&c.* was ſummoned to anſwer to *Mary Calverley*,

Com. Pleas. *verley*, Widow, of a Plea that he perform to her the Covenant between them made, according to the Form and Effect of a certain Indenture thereof made between them, *&c.* And whereupon the ſaid *Mary* by *D. R.* her Attorney ſaith, That **whereas** by a certain Indenture made at *T.* in the County aforeſaid, between the aforeſaid *Mary Calverley*, by the Name of *Mary Calverly* of the City of *Cheſter*, Widow and Relict of *George Calverley*, late of *L.* in the County of *Cheſter*, Gent. deceaſed, of the one Part, and the aforeſaid *Richard Leving*, by the Name of *Richard Leving*, Eſq; Recorder of the City of *Cheſter*, of the other Part, the Counter-part of which ſaid Indenture, ſealed with the Seal of the aforeſaid *Richard Leving*, Eſq; bearing Date the ſame Day and Year, the ſame *Mary Calverly* brings here into Court: By which *It is witneſſed*, That the aforeſaid *M. C.* for and in Conſideration of the Rents and Covenants after in the ſame Indenture made, mentioned and expreſſed, and for diverſe other good Cauſes and Conſiderations, the ſaid *Mary Calverly* thereto moving, did demiſe, grant, ſet, and to Farm let, and by the ſame Indenture hath demiſed, granted, ſet and to Farm let to the aforeſaid *R. L.* all that Capital Meſſuage, Tenement and Manſion-Houſe, ſituate, lying and being in the City of *Cheſter*, in or near a certain Street there, called *Bridge-Street*, upon the Eaſt-Part of the ſame Street, then or late in the Tenure, Occupation or Poſſeſſion of *E. L.* and alſo all thoſe Rooms, called the Lower Houſe, and lying under the aforeſaid Meſſuage, before then in the Tenure, Occupation or Poſſeſſion

Poſſeſſion of one *J. R.* deceaſed; and alſo all and ſingular Houſes, Edifices, Structures, Orchards, Gardens, Yards, Backſides, Cellars, Ways, Water-Courſes, Lights, Eaſements, Privileges, Profits, Commodities, Advantages, and Hereditaments whatſoever, to the aforeſaid Meſſuage, Rooms and Lower Houſe, ſeparately or together, belonging or in any wiſe appertaining, or to or with the ſame, or any Part thereof, ſeparately or together, then uſed, occupied or injoyed, or reputed, accepted, taken or known to be Part, Parcel or Member of them, or any of them; and alſo all the Eſtate, Right, Title, Intereſt, Claim and Demand whatſoever of the aforeſaid *Mary Calverley*, of, in or to a certain Seat, called a Pew or Seat, ſituate and being in the Pariſh-Church of Saint *Mary*, within the City of *Cheſter*: And the aforeſaid *Mary Calverley*, for the Conſiderations aforeſaid, by the ſame Indenture demiſed and granted to the aforeſaid *R. L.* ſeveral Goods and Chattels, and Implements of Houſhold, which then were mentioned in a certain Schedule to the aforeſaid Indenture annexed, to have, hold and enjoy the aforeſaid Capital Meſſuage, Rooms and Lower Houſe, and alſo the aforeſaid Goods and Chattels, and Implements of Houſhold, and all and ſingular other the aforeſaid demiſed Premiſſes, with their and ever of their Appurtenances, unto the aforeſaid *R. L.* and his Aſſigns, from the aforeſaid firſt Day of *May* then next enſuing the Date of the Indenture aforeſaid, for and during the Term, and unto the full End and Term of ninety-nine Years from thence next enſuing, fully to be

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Grants the Right of a Seat in the Church.

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Proviſo, on Default of Payment of the Rent, and no ſufficient Diſtreſs, to re-enter.

and in Conſideration of the Premiſſes from Time to Time, and at all Times from thenceforth during the ſaid Term determinable as aboveſaid, ſhould pay the aforeſaid annual Rent, reſerved on the aforeſaid Premiſſes at the Days aforeſaid, for all or ſo much Time thereof, as he or they ſhould enjoy the Premiſſes, in the State and Condition in the ſame Indenture mentioned, and from Time to Time, and at all Times during the Term aforeſaid, or ſo much thereof as the Subſtance of the aforeſaid Premiſſes and every Part thereof ſhould be, or without the Default of the aforeſaid *R. L.* or his Servants, or Family remain and continue, and be in the State and Condition in which they then were at the Time of the executing the Indenture aforeſaid, ſhould repair and amend the aforeſaid demiſed Premiſſes, and every Part and Parcel of the ſame, and every Thing upon or belonging to the aforeſaid demiſed Premiſſes, or any Part or Parcel of the ſame, in ſuch ſufficient good Manner as the aforeſaid *R. L.* ſhould find the ſame, ſhould repair, at the Time of the Commencement of the Term aforeſaid, and not otherwiſe; *provided always*, That if the aforeſaid Premiſſes, or any Part thereof ſhould happen to be burnt, deſtroyed or fallen down, for or by Reaſon of the immediate Default, or Neglect of the aforeſaid *R. L.* his Servants or Family, that then and in ſuch Caſe the aforeſaid *R. L.* ſhould well and ſufficiently repair the aforeſaid Premiſſes, and anſwer the aforeſaid Rent reſerved as aforeſaid, according to the true Intent and Purpoſe of the aforeſaid Indenture, (any Thing in the ſame Indenture contained

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Covenant for Payment of Rent.

Leſſee covenants to repair and leave the Premiſſes as he found them.

Com. Pleas. tained to the contrary in any wiſe notwithſtanding.) as by the Indenture aforeſaid, amongſt other Things, more fully and plainly appears: By Virtue of which ſaid Demiſe the aforeſaid *R. L.* afterwards, to wit, the ſecond Day of *May* next following after the Date of the Indenture aforeſaid, into the aforeſaid Meſſuage with the Appurtenances entered, and was and ſtill is thereof poſſeſſed, and the aforeſaid Meſſuage and demiſed Premiſſes at the aforeſaid Time of the Commencement of the aforeſaid Term of Years by the Indenture aforeſaid, as aforeſaid granted, were in good, and ſufficient, and tenantable Repair; and alſo the ſame *M. C.* hath well and ſufficiently obſerved, performed, and fulfilled all and ſingular the Covenants, Grants, Promiſes and Agreements in the Indenture aforeſaid ſpecified on the Part of her the ſaid *M. C.* to be obſerved, performed and fulfilled, according to the Form and Effect of the Indenture aforeſaid; and proteſting alſo that the aforeſaid *R. L.* hath not kept, obſerved, performed and fulfilled any of the Covenants, Grants, Promiſes or Agreements in the ſame Indenture ſpecified, on the Part of the ſaid *R. L.* to be obſerved, performed, fulfilled and kept, according to the Form and Effect of the Indenture aforeſaid, the ſame *M. C.* avers, That the aforeſaid demiſed Premiſſes now are, and for the whole Time next following after the Execution of the Indenture aforeſaid hitherto were, and have continued of the like and ſuch Condition, as they were at the Time of executing the Indenture aforeſaid, (except the ſeveral Defaults of Reparations thereof here under mentioned by him the ſaid *R. L.*

R. L. contrary to the Form and Effect of his Covenant aforeſaid in that Behalf abovementioned.) And the ſame *Mary Calverley* further avers, That Seventy-two Pounds ten Shillings of lawful Money of *Great Britain* of the Rent aforeſaid, as is aforeſaid reſerved for two Years and Half a Year, ending at the Feaſt of the Annunciation of the Bleſſed Virgin *Mary* in the Year, (*&c.*) to the ſame *M. C.* were in Arrear, due and payable, and that the aforeſaid *R. L.* although often required, (*&c*) at any Time hitherto hath not paid the aforeſaid Seventy-two Pounds ten Shillings, or any Part thereof, to the ſame *M. C.* or any way ſatisfied her for the ſame. And the ſame *M. C.* further avers, That the aforeſaid *R. L.* within the Term aforeſaid by the Indenture aforeſaid granted, to wit, the firſt Day of *April* in the Year, (*&c.*) and for the Space of eight Years then laſt paſt, and from thence until the Day of ſuing out the Original of her the ſaid *M C.* hath ſuffered the aforeſaid Capital Meſſuage, and three Out-houſes, Parcel of the Tenements aforeſaid above as aforeſaid demiſed, and ſix Chambers, two Lofts and ten other Rooms in the Meſſuage aforeſaid, to become very ruinous and altogether decayed in the principal Foundation Wall, Girders, Rafts, Leaden Gutters, Tiling, and hath alſo ſuffered ſix leaden Gutters, and ſix leaden Channels, other Parcel of the demiſed Premiſſes to become broken, ſpoiled and ruined, and hath alſo ſuffered the Party-Walls, to wit, one thouſand Feet of Party-Walls, ten Doors, ten Locks, ten Bolts, and one hundred Caſements, and the Pavement and Floors, and ten Pair of Stairs, other Parcel

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PLEA.

Plea. And the ſame *R. L.* by *T. H.* his Attorney, comes and defends the Force and Injury when, where, and as the Court ſhall think fit: And as to the Breach of Covenants aforeſaid, for that the Seventy-two Pounds ten Shillings of the Rent aforeſaid for the aforeſaid two Years and Half a Year, ending at the aforeſaid Feaſt of the *Annunciation of the Bleſſed Virgin Mary* in the Year, (*&c.*) aboveſaid, to the ſame *M. C.* by the Declaration aforeſaid ſuppoſed to be in Arrear, the ſame *R.* ſaith, That nothing of that Rent

Of the Rent, nothing in Arrear, and Iſſue.

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Rent is in Arrear to the ſame *M.C.* And of this he puts himſelf upon the Country; and the aforeſaid *M.C.* likewiſe, *&c.* And as to the Breach of the Covenant aforeſaid, in ſuffering the aforeſaid Capital Meſſuage and three Out-houſes, Parcel of the Tenements aforeſaid, as is reported, demiſed, and ſix Chimnies, ten Chambers, two Lofts, and ten other Rooms in the Meſſuage aforeſaid to be very ruinous and throughly in Decay in the Foundation of the principal Wall, Girders, Rafters, Leaden Gutters, Tiling and Lathing of them by the Declaration aforeſaid ſuppoſed to be done, the ſame *R.* ſaith, That the aforeſaid *M. C.* ought not to have or maintain her Action aforeſaid thereof againſt him, becauſe he ſaith, that thoſe Premiſſes from the Time of executing the Indenture aforeſaid were hitherto well and ſufficiently repaired; without this, that he the ſame *R.* hath ſuffered the Capital Meſſuage and three other Out-houſes, Chimnies, Chambers, Lofts, and Rooms, or any Parcel thereof, to become ruined and decayed, as by the Declaration aforeſaid above ſuppoſed; And this he is ready to juſtify: Wherefore he prays Judgment if the aforeſaid *M.C.* ought to have or maintain her Action aforeſaid thereof againſt him, *&c.* And as to the Breach of Covenant aforeſaid in ſuffering the aforeſaid ſix Leaden Gutters, and ſix Leaden Channels, other Parcel of the aforeſaid demiſed Premiſſes to be broken, ſpoiled and ruined by the Declaration aforeſaid above ſuppoſed to be done, the ſame *R.* ſaith, That the aforeſaid *M.C.* ought not to have or maintain her Action aforeſaid thereof againſt him, becauſe

As to the Houſe, Outhouſes, Chambers, Tiling, &c. out of Repair, Traverſe.

Com. Pleas. *Traverſe as to the Reparations of the Gutters and Channels.*

he ſaith, That thoſe Gutters and Channels from the Time of executing the Indenture aforeſaid were hitherto well and ſufficiently repaired, according to the Form and Effect of the Indenture aforeſaid; without this, that the ſame *R.* hath ſuffered thoſe Gutters and Channels or any Part thereof to be broken, ſpoiled and ruined in Manner and Form as by the Declaration aforeſaid is above ſuppoſed; And this he is ready to juſtify: Wherefore he prays Judgment if the aforeſaid *M. C.* ought to have or maintain her Action aforeſaid thereof againſt him, *&c.* And that alſo the Breach of the Covenant aforeſaid, in ſuffering the aforeſaid Party-Walls, Doors, Locks, Bolts, Caſements, Pavements, and ſix Pair of Stairs, other Parcel of the demiſed Premiſſes to be in Decay, deſtroyed, ſpoiled, pulled down, rotten, broken, taken away and loſt for want of neceſſary Amendments, Repairs and Preſervation of the ſame, by the Declaration aforeſaid above ſuppoſed to be done, the ſame *R.* ſaith, That the aforeſaid *M. C.* ought not to have or maintain her Action aforeſaid thereof againſt him, becauſe he ſaith, that from the Time of making the Indenture aforeſaid hitherto the Party-Walls, Doors, Locks, Bolts, Caſements, Pavements, and ten Pair of Stairs aforeſaid were well and ſufficiently amended, repaired and preſerved; without this, that the ſame *R.* hath ſuffered the Party-Walls, Doors, Locks, Bolts, Caſements, Pavements, and ten Pair of Stairs aforeſaid, or any Parcel thereof, to be in Decay, deſtroyed, ſpoiled, pulled down, rotten, broken, carried away or deſtroyed, for Default of Amendment, Reparation and Preſervation thereof,

Traverſe as to the Reparation of the Party-Walls, Doors, Stairs, &c.

thereof, in Manner and Form as by the Declaration aforeſaid above is ſuppoſed; And this he is ready to verify: Wherefore he prays Judgment if the aforeſaid *M. C.* ought to have or maintain her Action aforeſaid thereof againſt him, *&c.* Com. Pleas.

REPLICATION.

And the aforeſaid *M. C.* as to the aforeſaid Plea of the aforeſaid *R. L.* as to the aforeſaid Breach of the Covenant aforeſaid in ſuffering the aforeſaid Capital Meſſuage and three Out-houſes, Parcel of the Tenements aforeſaid above as aforeſaid demiſed, and the aforeſaid ſix Chimnies, ten Chambers, two Lofts, and ten other Rooms in the Meſſuage aforeſaid, to be very ruinous, and altogether decayed in the Foundation of the principal Wall, Girders, Rafters, Leaden Gutters, Lathing and Tiling of the ſame above pleaded in Bar, ſaith, That ſhe the ſame *M. C.* for any Thing by the ſame *R.* above thereof in Pleading alledged, ought not to be precluded from having her Action aforeſaid thereof againſt him, becauſe, as before ſhe ſaith, That the aforeſaid *R. L.* hath ſuffered the aforeſaid Capital Meſſuage and three Out-houſes, and the aforeſaid ſix Chimnies, ten Chambers, two Lofts and ten other Rooms in the Meſſuage aforeſaid, to be very ruinous and altogether decayed in the principal Foundation-Wall, Girders, Rafters, Leaden Gutters, Lathing and Tiling of the ſame, in Manner and Form as ſhe the ſame Lady *M. C.* by her Bill aforeſaid above thereof hath declared; And prays that this *Replication.*

Com. Pleas. this may be inquired of by the Country; And the aforeſaid *R. L.* likewiſe, *&c.* And as to the aforeſaid Plea of the aforeſaid *R. L.* as to the Breach of the Covenant aforeſaid, in ſuffering the aforeſaid ſix Leaden Gutters, and ſix Leaden Channels, other Parcels of the aforeſaid demiſed Premiſſes, to be broken, ſpoiled and ruined, above pleaded in Bar, ſhe the ſame *M. C.* ſaith, that ſhe, for any Matter by the ſame *R. L.* above thereof in Pleading alledged, ought not to be precluded from having her Action aforeſaid thereof againſt him, becauſe, as before ſhe ſaith, That the aforeſaid *R. L.* hath ſuffered the aforeſaid ſix Gutters, and ſix Leaden Channels, to be broken, ſpoiled and ruinous, in Manner and Form as ſhe the ſaid *M. C.* by her Declaration aforeſaid hath above thereof declared; And prays that this may be likewiſe inquired of by the Country; And the aforeſaid *R. L.* likewiſe, *&c.* And as to the aforeſaid Plea of the aforeſaid *R. L.* as to the aforeſaid Breach of the Covenant aforeſaid, in ſuffering the aforeſaid Party-Walls, Doors, Locks, Bolts, Caſements, Windows, Pavements, Floors, and ten Pair of Stairs, other Parcel of the demiſed Premiſſes, to be decayed, deſtroyed, ſpoiled, fallen down, rotten, broken, carried away and loſt, for want of neceſſary Amendment, Reparation, and Preſervation of the ſame above pleaded in Bar, ſhe the ſame *M. C.* ſaith, That ſhe, for any Matter by the ſame *R. L.* above thereof in Pleading alledged, ought not to be precluded from having her Action aforeſaid thereof againſt him, becauſe, as before ſhe ſaith, That the aforeſaid *R. L.* hath ſuffered the aforeſaid Party-Walls, and the aforeſaid ten Doors,

Iſſue upon the firſt Traverſe.

Iſſue upon the ſecond Traverſe.

Doors, ten Locks, ten Bolts, and one hundred Windows, and the aforeſaid Pavements and Floors, and ten Pair of Stairs, to be intirely decayed, deſtroyed, ſpoiled, fallen down, rotten, broken, carried away and loſt, for want of neceſſary Amendment, Reparation, and Preſervation of the ſame, in Manner and Form as ſhe the ſame *M. C.* by her Declaration aforeſaid hath thereof above declared; And ſhe prays this may be likewiſe inquired of by the Country; And the aforeſaid *R. L.* likewiſe, *&c.* And becauſe as well the Iſſue aforeſaid, as the ſeveral other Iſſues aforeſaid between the Parties aforeſaid above likewiſe joined, ought to be tried by Men of the County Palatine of *Cheſter*, to wit, of the Neighbourhood of *T.* aforeſaid in the aforeſaid County of *Cheſter*, where the Writ of the Lord the King doth not run, and not elſewhere; therefore the Record of the Plaint aforeſaid is ſent to the Juſtices of the ſaid Lord the King of the County of *Cheſter*, ſo that the ſame Juſtices, by the Writ of the Lord the King of that County duly made, do cauſe to be given in Charge to the Sheriff of the ſame County, that he cauſe to come before the ſame Juſtices of the ſaid Lord the King of the County of *Cheſter* aforeſaid, at the next Seſſions for that County, after that the Record aforeſaid was delivered to them, twelve honeſt and lawful Men of the Neighbourhood of *T.* aforeſaid in the aforeſaid County of *Cheſter*, by whom, *&c.* and who neither, *&c.* to recognize, *&c.* becauſe as well, *&c.* And when the Averments, and ſeveral Iſſues aforeſaid ſhall be done and tried, that then the aforeſaid Juſtices ſhall ſend

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Iſſue upon the third Traverſe.

The Record is ſent to the Juſtices of Cheſter.

Com. Pleas. ſend the Record of the Plaint aforeſaid, with all that ſhall be done therein, to the Juſtices of the Court of the ſaid Lord the King of the Bench at *Weſtminſter*, at a certain Day which the ſame Juſtices of the County Palatine aforeſaid to the Parties aforeſaid in the ſame Court there ſhall appoint to hear their Judgment thereof, *&c.* And it is charged to *M. C.* that ſhe may follow with Effect, at her Peril, *&c.*

For not paying of Money on a Mortgage.

London, to wit, J. *R.* late of, (*&c.*) otherwiſe called, (*&c.*) was ſummoned to anſwer *R. U.* of a Plea, that he perform to him the Covenant between them made, according to the Force, Form and Effect of certain Indentures thereof made between, *&c.* And whereupon the ſame *R.* by *D. R.* his Attorney ſaith, That by a certain Indenture made at *L.* aforeſaid, to wit, in the Pariſh, (*&c.*) on the five and twentieth Day of *October* in the Year One thouſand ſeven hundred and thirty, between the aforeſaid *J. R.* by the Name of, (*&c.*) of the one Part, and the aforeſaid *R. U.* by the Name of, (*&c.*) of the other Part; one Part of which ſaid Indenture, ſealed with the Seal of the ſaid *J.* the ſame *R.* brings here into Court, bearing Date the ſame Day and Year, for and in Conſideration of the Sum of Three hundred Pounds of lawful Money of *Great Britain*, to him the ſaid *J. R.* in Hand paid by the

ſaid *R. U.* at or before the Sealing and Delivery of the ſame Indenture, the Receipt whereof the ſaid *J. R.* by the ſame Indenture acknowledged and confeſſed; and thereof, and of every Part and Parcel thereof, acquitted and diſcharged the ſaid *R. W.* his Executors, Adminiſtrators and Aſſigns, and every of them for ever: By which ſaid Indenture the ſaid *J R.* granted and to Farm let, and by the ſame Indenture did grant and to Farm let to the ſaid *R. U.* his Executors, Adminiſtrators and Aſſigns, all thoſe eight Acres of Land, (*the Parcels as in the Indenture*); **To have and to hold** the ſaid Lands, Tithes and Premiſſes, with the Appurtenances, unto the ſaid *R. U.* his Executors, Adminiſtrators and Aſſigns, from the Day of the Date of the ſame Indenture, for and during the whole Time, and unto the full End and Term of a thouſand Years from thence next following, and fully to be compleat and ended; **Provided always**, and that Indenture was upon Condition, nevertheleſs, that if the aforeſaid *J. R.* his Heirs, Executors or Adminiſtrators, ſhould well and truly pay or cauſe to be paid to the ſaid *R. W.* his Executors, Adminiſtrators or Aſſigns, at or in the Common Dining-Hall of the *Inner Temple*, *London*, the full Sum of Three hundred and fifteen Pounds of lawful Money of *Great Britain*, at or upon the twelfth Day of *January* next enſuing the Date of the ſame Indenture, between the Hours of eleven and twelve of the Clock in the Forenoon, without any Deduction or Abatement out of that Money for or in Reſpect

Com. Pleas. ſpect of any Taxes, Charges or other Matter or Thing whatſoever impoſed, or to be impoſed upon the Premiſſes, or any of them, by Authority of Parliament or otherwiſe; that then and from thenceforth that Indenture, and the Eſtate and Term thereby created, ſhould ceaſe, determine and be utterly void: And the ſaid *J. R.* for himſelf, his Heirs, Executors and Adminiſtrators, and every of them, hath covenanted, promiſed, granted and agreed, to and with the ſaid *R. U.* his Executors, Adminiſtrators and Aſſigns, and to and with every of them by the ſame Indenture, that he the ſaid *J. R.* his Executors, Adminiſtrators and Aſſigns, or ſome of them, would well and truly pay or cauſe to be paid to the ſaid *R. U.* his Executors, Adminiſtrators or Aſſigns, the ſaid Sum of Three hundred and fifteen Pounds, at the Day and Time and Place of Payment aforeſaid, without any Deduction or Abatement thereout, or out of any Part thereof as aboveſaid, according to the Tenor and Effect and true Intent and Meaning thereof, without any Fraud or Covin, as by that Indenture amongſt other Things more fully and at large appears: And the ſame *R.* avers, that the aforeſaid *J.* hath not paid or cauſed to be paid to the ſame *R.* or his Aſſigns, the ſaid Sum of Three hundred and fifteen Pounds, or any Part thereof, at the Hall aforeſaid, being in the Pariſh of Saint *Dunſtan in the Eaſt*, *London*, upon the Day aforeſaid, and between the Hours aforeſaid above in that Behalf appointed, according to the Force, Form and Effect of the Indenture aforeſaid; but the ſame Sum of Mo-

rey

ney wholly to the ſame *R.* ſtill is unpaid; and ſo the aforeſaid *J.* altho' often requeſted, hath not held, but broke his Covenant aforeſaid above in that Behalf made with the aforeſaid *R.* and hath hitherto abſolutely denied, and ſtill doth deny to hold the ſame to him, to the Damage of the ſaid *R.* Three hundred and fifty Pounds; And thereof he brings his Suit, *&c.* Com. Pleas.

Debt.

On a Penal Bill, with two Days of Payment.

S. to wit, H. *H.* late of, *&c.* otherwiſe called, *&c.* was ſummoned to anſwer unto *R. K.* of a Plea, that he render to him fifteen Pounds which he owes to him and unjuſtly detains, *&c.* And whereupon the ſame (*Plaintiff*) by *D. R.* his Attorney ſaith, that **whereas** the aforeſaid (*Defendant*) on the twenty-fifth Day of *October* in the Year, (*&c.*) at, (*&c.*) by his certain Bill Obligatory which the ſame (*Plaintiff*) brings here into Court, ſealed with the Seal of the aforeſaid (*Defendant*) the Date whereof is the ſame Day and Year aforeſaid, did acknowledge himſelf to owe and be indebted to the ſame (*Plaintiff*) in the Sum of ſeven Pounds lawful Money of *Great Britain*, to be paid to the ſame (*Plaintiff*) his Heirs, Executors, Adminiſtrators or Aſſigns, in Form following, to wit, Three Pounds thereof at or upon the Feaſt of *All Saints* then next enſuing the Bill aforeſaid, and eighty Shillings Reſidue thereof at or upon the Feaſt-Day of Saint *Stephen* then next following; and for the ſame Payments

Com. Pleas. well and truly to be made the aforesaid (*Defendant*) bound himself, his Heirs, Executors and Administrators, in fifteen Pounds firmly by the same Bill: And the same *R.* protesting, that the aforesaid (*Defendant*) hath not paid to the same (*Plaintiff*) the aforesaid three Pounds upon the aforesaid Feast of *All Saints* next following the Date of the Bill aforesaid, which he ought to have paid to him upon that Feast, according to the Form and Effect of the Bill aforesaid, the same (*Plaintiff*) avers, that the aforesaid (*Defendant*) hath not paid to the same (*Plaintiff*) the aforesaid eighty Shillings upon the aforesaid Feast-Day of St. *Stephen*, which to him, at or upon the same Day, he ought to have paid, according to the Form and Effect of the Bill aforesaid; by which an Action hath accrued to the same (*Plaintiff*) to demand and have of the aforesaid (*Defendant*) the aforesaid fifteen Pounds; Yet the aforesaid (*Defendant*) altho' often requested, hath not rendered to the same (*Plaintiff*) the aforesaid fifteen Pounds, but hath altogether refused, and still doth refuse to render that to him; wherefore he saith that he is injured, and hath Damage to the Value of ten Pounds; And thereof brings his Suit, *&c.*

Upon a Penal Bill, where there is no Day of Payment mentioned.

W. to wit, G. P. late of, (*&c*) otherwise called, (*&c.*) was summoned to answer unto *J. C.* of a Plea, that he render to him sixty-six Pounds sixteen Shillings, which he owes to him, and unjustly detains, (*&c.*) And whereupon the same (*Plaintiff*) by *D. R.* his

his Attorney ſaith, That **Whereas** the aforeſaid (*Defendant*) on the four and twentieth Day of *October* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at, (*&c.*) by his certain obligatory Bill, which the ſame (*Plaintiff*) brings here into Court, ſealed with the Seal of the aforeſaid (*Defendant*) the Date of which is the ſame Day and Year aforeſaid, acknowledged himſelf to owe and ſtand indebted to the ſame (*Plaintiff*) in the Sum of three and twenty Pounds and eight Shillings of lawful Money of *Great Britain*, to be paid to the ſame (*Plaintiff*) his Executors, Adminiſtrators or Aſſigns; and to the ſame Payment well and truly to be made, the aforeſaid (*Defendant*) did bind himſelf, his Heirs, Executors and Adminiſtrators, in the penal Sum of ſixty-ſix Pounds ſixteen Shillings like lawful Money, by the ſame Bill; And the ſame (*Plaintiff*) avers, that he, after the making the Bill aforeſaid, to wit, the firſt Day of *January* in the Year, (*&c.*) aboveſaid, at *A.* aforeſaid, required the aforeſaid (*Defendant*) to pay to the ſame (*Plaintiff*) the aforeſaid twenty-three Pounds eight Shillings, which ſaid twenty-three Pounds eight Shillings the aforeſaid (*Defendant*) hath not paid to the ſame (*Plaintiff*), but hath then and there altogether refuſed to pay him the ſame, by which an Action accrued to the ſame (*Plaintiff*) to require and have of the aforeſaid (*Defendant*) the aforeſaid ſixty-ſix Pounds ſixteen Shillings: **Nevertheleſs** the aforeſaid (*Defendant*) altho' often required, hath not rendered to the ſame (*Plaintiff*) the aforeſaid ſixty-ſix Pounds ſixteen Shillings, but hath refuſed, and

Com. Pleas.

Com. Pleas. and ſtill doth refuſe to render the ſame to him: Wherefore he ſaith, that he is injured, and hath Damage to the Value of twenty Pounds; And thereupon he brings his Suit, *&c.*

Upon a Bond, and a Penal Bill, to be paid on Demand, againſt an Adminiſtrator.

W. to wit, S. *B.* Widow, Adminiſtratrix of the Goods and Chattels which were *W. B.*'s who died inteſtate, (*&c.*) otherwiſe called, (*&c.*) was ſummoned to anſwer unto *T. H.* of a Plea, that ſhe render to him eighty Pounds which ſhe unjuſtly detains from him, *&c.* And whereupon the ſame (*Plaintiff*) by *D. R.* his Attorney ſaith, That **whereas** the aforeſaid *W.* in his Life time, to wit, the ſecond Day of *April* in the Year of our Lord One thouſand ſeven hundred and twenty-nine, by his certain Writing Obligatory acknowledged himſelf to be held and firmly bound to the ſame (*Plaintiff*) in forty Pounds of the aforeſaid eighty Pounds, to be paid to the ſame (*Plaintiff*) when he ſhould be thereto required. **And alſo whereas** the aforeſaid *W.* in his Life-time, to wit, the tenth Day of *May* in the Year aboveſaid, at (*&c.*) by his certain Bill Obligatory, which the ſame (*Plaintiff*) brings here into Court, ſealed with the Seal of the aforeſaid *W.* the Date of which is the ſame Day and Year, did acknowledge himſelf to be indebted to the ſame (*Plaintiff*) in the Sum of twenty Pounds, lawful Money of *Great Britain*, to be paid to the ſame (*Plaintiff*) his Execu-

tors

tors and Administrators, immediately upon De- Com. Pleas.
mand, and to the same Payment well and truly to be made, in Manner and Form aforesaid, the aforesaid *W.* did bind himself, his Heirs, Executors and Administrators, in the Sum of forty Pounds of lawful Money of *Great Britain*: And the same (*Plaintiff*) avers, that after the making the Bill aforesaid, to wit, the first Day of *June* in the Year of our Lord One thousand seven hundred and thirty-one, at (*&c*) he required the aforesaid *W.* in his Life-time, to pay to the same (*Plaintiff*) the aforesaid twenty Pounds, which said twenty Pounds the aforesaid *W.* in his Life-time to the same (*Plaintiff*) hath not paid, but then and there refused to pay the same to him, by which an Action accrued to the same (*Plaintiff*) to require, and have of the aforesaid *W.* in his Life-time the aforesaid forty Pounds last mentioned, Residue of the aforesaid eighty Pounds; **Yet** the aforesaid *W.* in his Life-time, and the aforesaid (*Defendant*) after the Death of the said *W.* (to whom Administration of all the Goods and Chattels which were of the aforesaid *W.* at the Time of his Death, at (*&c.*) after the Death of him the said *W.* was granted) although often required, have not rendered the aforesaid eighty Pounds to the same (*Plaintiff*) but have denied to render the same to him. And the aforesaid (*Defendant*) still doth deny to render the same to him, and unjustly detains: Wherefore he saith that he is injured, and hath Damage to the Value of ten Pounds; And thereupon he brings his Suit, *&c.* And he brings here into Court the Writing Obligatory aforesaid, which testifies the said first mentioned

Com. Pleas. Debt of forty Pounds in Form aforeſaid, the Date of which is the ſame Day and Year firſt aboveſaid, *&c.*

On a Bill, that in Conſideration of thirty Guineas, Defendant *promiſed to procure* Plaintiff *a Waiter's Place, by a certain Time, or to repay the Money to* Plaintiff.

Middleſex, to wit, E. *B.* late of (*&c.*) otherwiſe called (*&c.*) was ſummoned to anſwer unto *J. H.* of a Plea, that he render to him thirty-one Pounds ten Shillings which he owes to him, and unjuſtly detains, (*&c.*) And whereupon the ſame (*Plaintiff*) by *G. T.* his Attorney ſaith, That whereas the aforeſaid (*Defendant*) on the nineteenth Day of *Auguſt* in the Year of our Lord One thouſand ſeven hundred and thirty, by his certain Bill Obligatory, ſealed with the Seal of the aforeſaid (*Defendant*) which the ſaid (*Plaintiff*) brings here into Court, the Date of which is the ſame Day and Year, hath owned to have received of the ſame (*Plaintiff*) the Sum of thirty Pieces of Gold, called Guineas, which by the ſame Bill he had promiſed to repay to the aforeſaid (*Plaintiff*) unleſs by the Intereſt or Procuration of the aforeſaid (*Defendant*) he, the ſame (*Plaintiff*) ſhould be actually in Poſſeſſion of a certain Office, called a Coaſt-Waiter's Place in the Port of *London*, by the firſt Day of *September* then next enſuing the Date of the Bill aforeſaid. And the ſame (*Plaintiff*) avers, that he, by the

the Intereſt or Procurement of the aforeſaid *(Defendant)* was not actually in the Poſſeſſion of the Office aforeſaid, called a Coaſt-Waiter's Place in the Port of *London*, by the firſt Day of *September* then next enſuing the Date of the Bill aforeſaid, by which an Action accrued to the ſame *(Plaintiff)* to require and have of the aforeſaid *(Defendant)* the aforeſaid thirty Pieces of Gold called Guineas, amounting to the aforeſaid thirty-one Pounds ten Shillings: **Nevertheleſs**, the aforeſaid *(Defendant)* although often required, hath not as yet rendered to the ſame *(Plaintiff)* the aforeſaid thirty-one Pounds ten Shillings, but, *&c.* (*as above.*) Com. Pleas.

Declaration for a Heifer bought, to be paid upon Requeſt.

York, to wit, R. *T.* late of, (*&c.*) was ſummoned to anſwer unto *H. B.* of a Plea, that he render to him four Pounds ſix Shillings which he owes him, and unjuſtly detains, *&c.* And whereupon the ſame *(Plaintiff)* by *D. R.* his Attorney ſaith, That **whereas** the aforeſaid *(Defendant)* on the twenty-fifth Day of *October* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at *Leeds* in the County aforeſaid had bought of the ſame *(Plaintiff)* one Heifer for the aforeſaid four Pounds ſix Shillings, to be paid to the ſame *(Plaintiff)* when he ſhould be thereto requeſted: **Yet** the aforeſaid *(Defendant)* although often requeſted, hath not rendered to the ſame *(Plaintiff)* the aforeſaid eighty-ſix Pounds, but, *&c.* (*as in others.*)

Com. Pleas.

A Declaration upon an Eſcape of a Priſoner in Execution in the Fleet.

London, to wit, J. *W.* by *J. L.* his Attorney complains of *A. C.* Eſq; Warden of the Priſon of the Lord the King of the *Fleet*, preſent here in Court in his proper Perſon, for that *that* he hath not rendered to the ſame *J.* One hundred four Pounds ten Shillings lawful Money of *Great Britain*, which he owes him, and unjuſtly detains, for that, to wit, That **whereas** the ſame *J. W.* heretofore, to wit, in the Court of the Lord the now King, in the Term of *Eaſter* in the fifth Year of his Reign, before *Robert Eyre*, Knight, and his Brethren, then Juſtices of the ſaid Lord the King of the Bench here, at *Weſtminſter* in the County of *Middleſex*, by the Conſideration of the ſame Court, had recovered againſt one *A. M.* late of (*&c.*) Gentleman, as well a certain Debt of ninety-four Pounds, as ten Pounds ten Shillings, which to the ſame *J.* were adjudged in the ſame Court of the Lord the King here, for his Damages which he hath ſuſtained by Occaſion of the Detention of that Debt whereof he is convicted, as by the Record and Proceedings therein in the ſame Court of the ſaid Lord the King here, to wit, at *Weſtminſter* aforeſaid remaining, manifeſtly appears: **And afterwards**, to wit, on *Wedneſday* in the Octave of Saint *Martin* in the fifth Year of the ſaid Lord the now King, the aforeſaid *A. M.* came here into Court in his proper Perſon, by the Steward and Bailiff of the

the Liberty of Saint *Peter*, within the City of *York*, by Virtue of a Writ of the ſaid Lord the King of *Habeas Corpus*, directed to the ſame Steward and Bailiffs, brought to the Bar of the ſaid Court here, to wit, at *Weſtminſter* aforeſaid, and then by the ſame Court was committed to the Priſon of the *Fleet*, in Execution for the Debt and Damages aforeſaid, in Form aforeſaid recovered, there to remain, until, &c. as by the Record thereof in the ſaid Court of the Bench here, to wit, at *Weſtminſter* aforeſaid remaining more fully appears; by Virtue of which Commitment the ſame *A.* then, and ſtill being Warden of the ſame Priſon of the *Fleet* then and there received, and had the aforeſaid *A. M.* into his Cuſtody, in Execution for the Debt and Damages aforeſaid, and him ſafe unto, at, and into the Priſon of the *Fleet*, at *London*, in the Pariſh of St. *Bridget* in the Ward of *Farringdon without*, then and ſtill being, he led and placed, and the ſame *A. M.* under his Cuſtody there in Execution for the Debt and Damages aforeſaid in that Priſon had kept and detained: And the ſaid *A.* ſo in Cuſtody of the ſaid *A. C.* in Execution for the Debt and Damages aforeſaid, being in Form aforeſaid detained, the ſame *A.* afterwards, to wit, the ſixteenth Day of *April* in the ſixth Year of the Reign of the now King, then being as aforeſaid Warden of the Priſon of the *Fleet*, ſuffered the aforeſaid *A. M.* out of that Priſon, and out of his Cuſtody at large where he would, freely and voluntarily to go and eſcape, to wit, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, without the Leave, and againſt the Will of the ſaid *J.* then or ſtill of

Com. Pleas.

You muſt have a Copy of the Commitment, and Habeas Corpus *from the Roll, to ſettle the Declaration. A Copy out of the Treaſury muſt be proved on the Trial.*

Com. Pleas. of the ſame Debt and Damages aforeſaid, or any Part thereof, not being ſatisfied; by which an Action hath accrued to the ſame *J.* to demand and have of the aforeſaid *A.* the aforeſaid One hundred and four Pounds ten Shillings: **Nevertheleſs**, the aforeſaid *A.* although often requeſted, hath not as yet rendered to the ſame *J.* the aforeſaid One hundred and four Pounds ten Shillings, but hath hitherto refuſed, and ſtill doth refuſe to render to him the ſame: Wherefore he ſaith that he is injured, and hath Damage to the Value of ten Pounds; And therefore he prays Remedy, *&c.*

For an Eſcape againſt the Sheriff, on a Writ of Capias ad Satisfaciendum, *on a Judgment in the* Common Pleas.

Oxford, to wit, W. *W.* late of, (*&c.*) in the County aforeſaid, Eſq; late Sheriff of the County aforeſaid, was ſummoned to anſwer *R. R.* Gent. of a Plea, that he render to him nineteen Pounds, which he owes him, and unjuſtly detains, *&c.* and whereupon the ſame (*Plaintiff*) by *D. R.* his Attorney ſaith, that **whereas** the ſame (*Plaintiff*) heretofore in the Court of the Lord the King, to wit, in the Term of *Eaſter* in the fifth Year of his Reign, before *R. E.* Knight, and his Brethren, then Juſtices of him the ſaid Lord the King of the Bench here, to wit, at *Weſtminſter*, by the Conſideration of the ſame Court, had recovered againſt one *J. C.* by the Name of *John Coleman*, late of *C.* in the County aforeſaid Innholder, otherwiſe called

J.

J. C. of *C.* of the County of *Oxford* Innholder, Com. Pleas.
as well a certain Debt of ſixteen Pounds, as ſixty Shillings, which were adjudged to the ſame (*Plaintiff*) in the ſame Court of the Lord the King here, for his Damages which he had ſuſtained by Occaſion of the Detention of that Debt whereof he is convicted, as by the Record and Proceedings therein in the ſame Court remaining more fully appears: And whereas the aforeſaid (*Plaintiff*) afterwards, to wit, in the Term of the *Holy Trinity* in the fifth Year of the Reign of the Lord the King aboveſaid, for obtaining Execution of the Judgment aforeſaid, in its Force and Effect then remaining, he had ſued out of the Court of the Lord the King of the Bench here, a certain Writ of the ſaid Lord the King of *Capias ad Satisfaciendum* againſt the aforeſaid *J. C.* of and upon the Judgment aforeſaid, directed to the then Sheriff of *Oxford*, by which ſaid Writ the ſaid Lord the King commanded the then Sheriff of the County of *Oxford* aforeſaid, that he ſhould take the aforeſaid *J. C.* if he might be found in his Bailiwick, and him ſafely keep, ſo that he might have his Body before the Juſtices of the ſaid Lord the King here, to wit, at *Weſtminſter* aforeſaid, on the Morrow of *All Souls* then next following, to ſatisfy unto the aforeſaid (*Plaintiff*) as well for a Debt of ſixteen Pounds aforeſaid, which the ſame (*Plaintiff*) in the aforeſaid Court of the ſaid Lord the King here had recovered againſt him, as for the aforeſaid ſixty Shillings, which to the ſame (*Plaintiff*) in the ſame Court of the ſaid Lord the King here were adjudged for his Damages, which he ſuſtained by Occaſion of the De-

Com. Pleas. Detention of that Debt whereof he was convicted, which ſaid Writ of the ſaid Lord the King, in Form aforeſaid ſued out, the ſame (*Plaintiff*) afterwards, to wit, the tenth Day of *September* in the fifth Year of the ſaid Lord the now King aboveſaid, at *C.* aforeſaid, in the County aforeſaid, delivered to the aforeſaid (*Defendant*) then being Sheriff of the County of *Oxford* aforeſaid, in Form of Law to be executed; by Virtue of which ſaid Writ the aforeſaid (*Defendant*) afterwards, to wit, the tenth Day of *October* in the fifth Year aboveſaid, then being Sheriff of the County aforeſaid, took and arreſted the aforeſaid *J. C.* at *C.* aforeſaid, and him *J. C.* then and there had and kept in his Cuſtody, in Execution for the Debt and Damages aforeſaid; and the aforeſaid *J. C.* being as aforeſaid, in Cuſtody of the aforeſaid (*Defendant*) then Sheriff of the County aforeſaid, in Execution for the Debt and Damages aforeſaid, being in Form aforeſaid detained, the ſame (*Defendant*) afterwards, to wit, the twelfth Day of *October* in the fifth Year aboveſaid, then being Sheriff of the County of *Oxford* aforeſaid, ſuffered the aforeſaid *J. C.* at *C.* aforeſaid, freely to go at large where he would out of his Cuſtody, the ſame (*Plaintiff*) of his Debt and Damages aforeſaid being not ſatisfied; by which an Action accrued to the ſame (*Plaintiff*) to demand and have of the aforeſaid (*Defendant*) the aforeſaid nineteen Pounds: **Nevertheleſs**, the aforeſaid (*Defendant*) although often requeſted, hath not as yet rendered to the ſame (*Plaintiff*) the aforeſaid nineteen Pounds, but hath hitherto refuſed, and ſtill doth refuſe to render the

ſame

ſame to him; wherefore he ſaith that he is injured, and hath Damage to the Value of ——— Pounds; And thereupon he brings his Suit, *&c.* Com. Pleas.

Againſt the Bailiff of a Liberty, for an Eſcape, upon a Capias ad Satisfaciendum.

S. to wit, J. *S.* late of, (*&c.*) Eſq; Bailiff of the Liberty of the Hundred of *P.* in the County aforeſaid, was ſummoned to anſwer unto *N. T.* of a Plea, that he render to him fifty-two Pounds ten Shillings which he owes him, and unjuſtly detains, *&c.* and whereupon the ſame (*Plaintiff*) (*&c. as in others*) which ſaid Writ afterwards, and before the Return thereof, to wit, the twentieth Day of *March* in the (*&c.*) at *B* in the County aforeſaid, was delivered to one *C. C.* Eſq; then being Sheriff of the County aforeſaid, in Form of Law to be executed; by Virtue of which ſaid Writ the aforeſaid then Sheriff then and there made his certain Warrant in Writing, ſealed with his Seal of Office, directed to the Bailliff of the Hundred of *P.* in the County aforeſaid, which ſaid Bailiff then had the full Execution and Return of all Writs and Warrants within the ſame Liberty, to whom wholly belonged the Execution of that Writ to be done, for that the Execution thereof without that Liberty, in the Bailiwick of the aforeſaid Sheriff, could not be done by him the ſaid Sheriff; by which ſaid Warrant the ſame then Sheriff of *D.* commanded the aforeſaid Bailiff of the Liberty aforeſaid to take the aforeſaid *T. B.* to ſatisfy to the ſame *N.* for the Debt

Com. Pleas. Debt and Damages aforeſaid, according to the Tenor of the Writ aforeſaid; which ſaid Warrant afterwards, and before the Return of the Writ aforeſaid, to wit, the —— Day (*&c.*) in the fifth Year, (*&c.*) at *C.* within the Liberty of the Hundred aforeſaid, to the aforeſaid *J.* then being Bailiff of the Liberty of that Hundred, was delivered by the ſaid *N.* in Form of Law to be executed; by Virtue of which ſaid Warrant the aforeſaid *J.* being Bailiff of the Liberty aforeſaid, afterwards, and before the Return of the Writ aforeſaid, to wit, the — Day of —, in the fifth Year, (*&c.*) at *C.* aforeſaid, within the Liberty aforeſaid, took and arreſted the aforeſaid *T. B.* and then and there had him in his Cuſtody, in Execution for the Debt and Damages aforeſaid; and the aforeſaid *T.* ſo being as aforeſaid, in Cuſtody of the aforeſaid *J.* Bailiff of the Liberty aforeſaid, in Execution for the Debt and Damages aforeſaid, the ſame *J.* being as aforeſaid Bailiff of the Liberty of the Hundred aforeſaid, ſuffered the aforeſaid *T. B.* afterwards, to wit, (*ſuch a Day and Year*) at *B.* aforeſaid, out of the Cuſtody of him the ſaid *J.* (the ſame *N.* of the Debt and Damages aforeſaid, or any Parcel thereof, not being ſatisfied) without the Leave, and againſt the Will of him the ſaid *N.* to go and eſcape freely and at large where he would, by which an Action accrued to the ſame *N.* to demand and have of the aforeſaid *J.* the aforeſaid fifty-two Pounds ten Shillings: Nevertheleſs the aforeſaid *J.* although often requeſted, hath not as yet rendered to the ſame (*Plaintiff*) the aforeſaid fifty-two Pounds ten Shillings, but hath hitherto refuſed, and ſtill doth refuſe to render the

ſame to him; whereupon he ſaith that he is injured, and hath Damage to the Value of forty Pounds; And thereof he brings his Suit, *&c.* Com. Pleas.

Declaration upon a Judgment recovered in a Court Baron. Money borrowed to bring the Action in Verge of the Court.

York, to wit, W. *H.* late of *B.* in the County aforeſaid, Yeoman, and *K.* his Wife, were ſummoned to anſwer unto *A. C.* of a Plea, that they render to him One hundred Shillings which they owe to him and unjuſtly detain, *&c.* And whereupon the ſame (*Plaintiff*) by *D. R.* his Attorney ſaith, That whereas at a Court Baron of *H. E.* Knight, of his Honour of *P.* in the County aforeſaid, held at *S.* within that Honour, the third Day of *October* in the fifth Year of the Reign of the Lord the now King, before *T. Y.* and *R. B.* Suitors of the ſame Court, he the ſame (*Plaintiff*) in his proper Perſon came, and did levy his certain Plaint againſt the aforeſaid (*Defendant*) in a certain Plea of Treſpaſs upon the Caſe, to the Damage of the ſaid (*Plaintiff*) eighty-nine Pounds, for Cauſe of Action ariſing and to be recovered within the ſame Honour and Juriſdiction of that Court; and likewiſe whereupon ſuch were the Proceedings, that afterwards, to wit, at the Court Baron of the aforeſaid *H.* of his Honour aforeſaid, before the Suitors aforeſaid, in Form aforeſaid held at *S.* aforeſaid within the ſame Honour, the eighteenth Day of *December* in the

Com. Pleas. the fifth Year aboveſaid, the ſame (*Plaintiff*) by the Judgment of the ſame Court recovered againſt the aforeſaid (*Defendant*) twenty-three Shillings and nine Pence, for his Damages which he ſuſtained by Occaſion of certain Promiſes and Aſſumptions to the ſame (*Plaintiff*) by the aforeſaid *K.* whilſt ſhe was ſingle, at *S.* aforeſaid within the Honour aforeſaid and Juriſdiction of the ſame Court made, not performed, (being the ſame Treſpaſs upon the Caſe whereof the ſaid Plaint had been ſo levied,) as for his Coſts and Charges by him about his Suit in that Behalf put unto, whereof they are convicted; which ſaid Judgment ſtill remains in its full Strength and Effect, not annihilated, reverſed or ſatisfied; and the ſame (*Plaintiff*) hath not as yet got Execution of that Judgment, by which an Action accrued to the ſame (*Plaintiff*) to demand and have of the aforeſaid (*Defendant*) the aforeſaid twenty-three Shillings and nine Pence of the aforeſaid *C.* **And alſo whereas** the aforeſaid (*Defendants*) the firſt Day of *May* in the fifth Year aforeſaid, at *S.* aforeſaid, were indebted to the ſaid (*Plaintiff*) in the Sum of ſeventy ſix Pounds and three Pence, Reſidue of the ſaid one hundred Shillings, for the like Sum borrowed, by the ſaid *K.* when ſhe was ſingle, of the ſaid (*Plaintiff*) the ſaid (*Defendants*) promiſed to pay the ſaid laſt mentioned Sum to the ſaid (*Plaintiff*) when they ſhould be thereto required: **Nevertheleſs** the aforeſaid (*Defendants*) altho' often requeſted, have not as yet rendered to the ſame (*Plaintiff*) the aforeſaid one hundred Shillings, but have hitherto abſolutely refuſed,

ſuſed, and ſtill doth refuſe to render to him the ſame; wherefore he ſaith that he is injured, and hath Damage to the Value of ten Pounds; And thereupon he brings his Suit, *&c.* Com. Pleas.

Declaration upon a Judgment in Debt recovered in the Common Pleas.

M. to wit, T. *R.* late of *S.* in the County of *York*, Eſq; was ſummoned to anſwer unto *J. G.* Eſq; late Sheriff of the County of *York* aforeſaid, of a Plea, that he render to him Three hundred ſixty-three Pounds, which he owes to him and unjuſtly detains, *&c.* And whereupon the ſame (*Plaintiff*) by *T. H.* his Attorney ſaith, That **whereas** the ſame (*Plaintiff*) heretofore, to wit, in the Term of the Holy *Trinity* in the fifth Year of the Reign of the Lord the now King, in the Court of the ſaid Lord the King, before *R. E.* Knt. and his Brethren, then Juſtices of the ſaid Lord the King of the Bench here, to wit, at *Weſtminſter* aforeſaid, by the Conſideration of the ſame Court, recovered againſt the aforeſaid (*Defendant*) by the Name of *T. R.* late of, (*&c.*) otherwiſe called, (*&c.*) as well a certain Debt of three hundred Pounds, as ſixty-three Pounds and eight Pence, which were then adjudged to the ſame (*Plaintiff*) in the ſame Court here for his Damages which he hath ſuſtained by Occaſion of the Detention of that Debt, whereof he is convicted, as by the Record and Proceedings thereof in the ſame Court of the ſaid Lord the now King here remaining manifeſtly

Com. Pleas. appears; which ſaid Judgment ſtill remains in its Force, Strength and Effect, not reverſed, annulled or ſatisfied, and the ſame (*Plaintiff*) hath not as yet got Execution of the Judgment aforeſaid, by which an Action accrues to the ſame (*Plaintiff*) to demand and have of the aforeſaid (*Defendant*) the aforeſaid three hundred ſixty-three Pounds; **Nevertheleſs** the aforeſaid (*Defendant*) although often requeſted, hath not as yet rendered to the ſame (*Plaintiff*) the aforeſaid three hundred ſixty-three Pounds, but hath hitherto altogether refuſed, and ſtill doth refuſe to render the ſame to him; wherefore he ſaith that he is injured, and hath Damage to the Value of forty Pounds; And thereof brings his Suit, *&c.*

Declaration on a Bail-Bond, according to the Statute, againſt the Bail.

(*See another Form in* Vol. I.)

Leiceſter, to wit, HEnry *Spittlehouſe*, late of, (*&c.*) otherwiſe called, (*&c.*) was ſummoned to anſwer unto *J. S.* Aſſignee of *H. T.* Eſq; Sheriff of the County aforeſaid, according to the Form of the Statute in ſuch Caſe lately made and provided, of a Plea, that he render to him forty Pounds, which he owes him, and unjuſtly detains, *&c.* And whereupon the ſame *J.* by *D. R.* his Attorney ſaith, that whereas one *J. K.* late of, *&c.* in the County aforeſaid, Yeoman, on the fifth Day of *March* in the Year of our Lord One thouſand ſeven hundred and thirty-one, at *L.* in the

the County aforeſaid, was arreſted at the Suit of the ſaid *J. S.* by Virtue of a certain Writ of the Lord the King before that Time iſſuing out of the Court of the ſaid Lord the King of the Bench at *Weſtminſter*, and directed to the aforeſaid Sheriff of *Leiceſter*, for the taking the aforeſaid *J. K.* ſo that the ſame Sheriff ſhould have his Body before the Juſtices of the ſaid Lord the King of the Bench at *Weſtminſter*, from the Day of *Eaſter* in fifteen Days, to anſwer unto the aforeſaid *J. S.* of a Plea of Treſpaſs, and alſo of a Plea of Debt upon Demand for twenty Pounds: **And whereas** the aforeſaid *H. T.* then being as aforeſaid Sheriff of *Leiceſter* aforeſaid, took Bail for the Appearance of him the ſaid *J. K.* according to the Form of that Writ; and thereupon the ſame *Henry Spittlehouſe*, the aforeſaid fifth Day of *March* in the Year aboveſaid, at *L.* aforeſaid by his certain Writing obligatory, ſealed with the Seal of the ſaid *H. S.* and which the ſame (*Plaintiff*) brings here into Court, the Date whereof is the ſame Day and Year laſt aboveſaid, acknowledged himſelf to be held and firmly bound unto the aforeſaid *H. T.* then being Sheriff of the County of *Leiceſter* aforeſaid, by the Name of *Henry T.* Eſq; Sheriff of the County aforeſaid, in the aforeſaid forty Pounds, to be paid to the ſame Sheriff or his certain Attorney, Executors, Adminiſtrators or Aſſigns, on Demand, with Condition underwritten, to the ſame Writing obligatory, that the aforeſaid *J. K.* ſhould appear before the Juſtices of the ſaid Lord the King at *Weſtminſter*, from the Day of *Eaſter* in

Com. Pleas.

Com. Pleas. fifteen Days, to anſwer unto *J. S.* of a Plea of Treſpaſs, and alſo of a Plea of Debt upon Demand for twenty Pounds, that then that Obligation ſhould be void, and of no Force, otherwiſe it ſhould ſtand and remain in its full Force, Vigour and Effect: **And whereas** the aforeſaid *H. T.* afterwards, to wit, the fifteenth Day of *May* in the Year of our Lord One thouſand ſeven hundred and thirty-two, at *L.* aforeſaid, at the Requeſt of the ſaid *John S.* had aſſigned the Writing obligatory aforeſaid to the ſame *J. S.* according to the Form of the Statute in ſuch Caſe lately made and provided, by indorſing that Writing obligatory, and atteſting thereof, under the Hand and Seal of the ſame Sheriff, in the Preſence of two credible Witneſſes, according to the Form of that Statute: And the aforeſaid *J. S.* avers, that the aforeſaid *J. K.* hath not appeared before the Juſtices of the ſaid Lord the King of the Bench at *Weſtminſter*, from the Day of *Eaſter* in fifteen Days in the Condition aforeſaid mentioned, according to the Form of that Condition; by reaſon whereof that Writing obligatory became forfeited, by which and by Force of the Statute aforeſaid an Action accrued to the ſame *J. S.* as Aſſignee of the aforeſaid *H. T.* to demand and have of the aforeſaid *H. S.* the aforeſaid forty Pounds: **Nevertheleſs** the aforeſaid *H. S.* although often requeſted, hath not as yet rendered to the aforeſaid *H. T.* or to the ſame *J. S.* or either of them, the aforeſaid forty Pounds, but hath refuſed to render to them or either of them the ſame, and ſtill refuſes to render to the aforeſaid *J. S.* the ſame

whereupon

whereupon he ſaith, that he is injured, and hath Damage to the Value of twenty Pounds; And thereof he brings his Suit, *&c.* Com. Pleas.

Declaration on a Bail-Bond, according to the Statute, againſt the Principal.

Middleſex, to wit, GERVAS *Kellet*, late of, (*&c.*) otherwiſe called, (*&c.*) was ſummoned to anſwer unto *Richard Gray*, Aſſignee of *G. B.* and *A. C.* Knights, late Sheriffs of the County of *Middleſex*, according to the Form of the Statute in ſuch Caſe made and provided, of a Plea, that he render to him forty Pounds, which he ows to him, and unjuſtly detains, *&c.* And whereupon the ſame *Richard* by *A. F.* his Attorney ſaith, that **whereas** the aforeſaid *Gervas Kellet*, the ſixteenth Day of *June* in the ſixth Year of the Reign of the Lord the now King, at *Weſtminſter* in the County aforeſaid, by the ſame *G. B.* and *A. C.* then being Sheriffs of *M.* aforeſaid, was arreſted at the Suit of the ſaid *R. Gray*, by Virtue of a certain Writ of the ſaid Lord the King, before that Time iſſuing out of the Court of the ſaid Lord the King of the Bench, at *Weſtminſter*, and directed to the aforeſaid Sheriff of *Middleſex*, for the taking the aforeſaid *Gervas*, ſo that the ſame Sheriff ſhould have his Body before the Juſtices of the ſaid Lord the King of the Bench at *Weſtminſter*, from the Day of the *Holy Trinity* in three Weeks then next enſuing, to anſwer unto the aforeſaid *R. Gray*, of a Plea of Treſpaſs, and alſo to anſwer the ſaid *R. G.* according, *&c.* of a Plea

Com. Pleas. of Debt upon Demand for twenty Pounds: And whereas the aforeſaid *G. B.* and *A. C.* then being as aforeſaid Sheriff of the County of *Middleſex* aforeſaid, took Bail for the Appearance of him the ſaid *Gervas*, according to the Form of that Writ, and thereupon the aforeſaid *Gervas*, on the aforeſaid ſixteenth Day of *June* in the ſixth Year aboveſaid, at *Weſtminſter* aforeſaid, by his certain Writing obligatory, ſealed with the Seal of him the ſaid *Gervas*, (which ſaid Writing the ſame *Richard* brings here into Court, the Date whereof is the ſame Day and Year laſt aboveſaid,) acknowledged himſelf to be held and firmly bound to the aforeſaid *G. B.* and *A. C.* then being Sheriff of the County aforeſaid, by the Name of *G. B.* and *A. C.* Sheriff of the County of *Middleſex* aforeſaid, in the aforeſaid forty Pounds, to be paid to the ſame Sheriff or his certain Attorney, Executors, Adminiſtrators or Aſſigns, when he ſhould be thereto requeſted, with Condition under-written to the ſame Writing obligatory, That if the above bound *Gervas* ſhould appear before the Juſtices of the ſaid Lord the King, at *Weſtminſter*, from the Day of the Holy *Trinity* in three Weeks, to anſwer unto the aforeſaid *R. G.* of a Plea of Treſpaſs, and alſo to anſwer the aforeſaid *R. G.* in a Plea of Debt upon Demand for twenty Pounds, that then the Obligation aforeſaid ſhould be void, and of no Force, otherwiſe ſhould ſtand and continue in its full Strength, Force and Effect: And whereas the aforeſaid *G. B.* and *A. C.* afterwards, to wit, on the twenty ſeventh Day of *September* in the Year of our Lord One

One thouſand ſeven hundred and thirty-two, at *Weſtminſter* aforeſaid, at the Requeſt of the ſaid *R.* aſſigned the Writing obligatory aforeſaid to the ſame *Richard*, according to the Form of the Statute in ſuch Caſe lately made and provided, by indorſing the Writing obligatory aforeſaid, and atteſting the ſame under the Hand and Seal of the ſame Sheriff, in the Preſence of two credible Witneſſes, according to the Form and Effect of that Statute: And the aforeſaid *R.* avers, that the aforeſaid *Gervas* hath not appeared before the Juſtices of the ſaid Lord the King of the Bench at *Weſtminſter*, from the Day of the Holy *Trinity* in three Weeks, in the Condition aforeſaid mentioned, according to the Form of that Condition; by reaſon whereof that Writing obligatory became forfeited, by which, and by Force of the Statute aforeſaid, an Action accrued to the ſame *Richard*, as Aſſignee of the aforeſaid *G. B.* and *A. C.* to demand and have of the aforeſaid *Gervas* the aforeſaid forty Pounds: Nevertheleſs the aforeſaid *Gervas*, although often requeſted, hath not rendered to the aforeſaid *G. B.* and *A. C.* or to the ſame *R.* or any of them, the aforeſaid forty Pounds, but the ſame to them, and every of them, hath denied to render, and ſtill denies to render to the aforeſaid *Richard*; wherefore he ſaith that he is injured, and hath Damage to the Value of twenty Pounds; And thereof brings his Suit, *&c.* Com. Pleas.

Declaration on a Bond, with Satisfaction for Part.

London, to wit, P. *H.* late of, *&c.* otherwiſe called, *&c.* was ſummoned to anſwer unto *W. M.* of a Plea, that he render to him ſixty Pounds, which he owes to him and unjuſtly detains, *&c.* And whereupon the ſame (*Plaintiff*) by *D. R.* his Attorney ſaith, that **whereas** the aforeſaid (*Defendant*) ſuch a Day and Year, at, (*&c.*) by his certain Writing obligatory acknowledged himſelf to be held and firmly bound to the ſame (*Plaintiff*) in ſeventy Pounds, to be paid to the ſame (*Plaintiff*) when he ſhould be thereto requeſted: And the aforeſaid (*Defendant*) afterwards ſatisfied to the ſame (*Plaintiff*) ten Pounds of lawful, (*&c.*) Part thereof: **Nevertheleſs** the aforeſaid (*Defendant*) although often requeſted, hath not as yet rendered to the ſame (*Plaintiff*) the aforeſaid ſixty Pounds Reſidue thereof, but the ſame to him hath denied, *&c.* (*as in others.*)

Declaration at the Suit of an Attorney, on a Bond.

York, to wit, J. *H.* was attached by a Writ of the Lord the King of Privilege iſſuing out of the Court here, to anſwer unto *T. P.* Gentleman, one of the Attornies of the Court of the Lord the King of the

the Bench here, according to the Liberties and Privileges of the ſame Court for ſuch Attornies, and other Miniſters of the ſame Bench, uſed and approved of in the ſame Time out of Mind, of a Plea, that he render unto him ſix Ponnds which he owes to him and unjuſtly detains, *&c.* And whereupon the ſame *T.* in his proper Perſon ſaith, that **whereas** the aforeſaid (*Defendant*) on the twentieth Day of *September* in the fifth Year of the Reign of the Lord the now King, at the City of *York* aforeſaid, by his certain Writing obligatory, confeſſed himſelf to be held and firmly bound to the ſame (*Plaintiff*) in the aforeſaid ſix Pounds, to be paid to the ſame (*Plaintiff*) when he ſhould be thereto requeſted; **yet** the aforeſaid (*Defendant*) although often requeſted, hath not as yet rendered to the ſame (*Plaintiff*) the aforeſaid ſix Pounds, but the ſame to him hitherto hath denied to render, and ſtill doth deny; wherefore he ſaith that he is injured, and hath Damage to the Value of ten Pounds; And thereupon he brings his Suit, *&c.* And he brings here into Court the Writing obligatory aforeſaid, which teſtifies the Debt aforeſaid in Form aforeſaid, the Date whereof is the ſame Day and Year aboveſaid, *&c.* Com. Pleas.

Declaration againſt an Attorney, on a Bond.

Be it remembered, That on the twentieth Day of *June* in this ſame Term came here into Court *R. T.* Gent. by *T. H.* his Attorney, and exhibited to the Juſtices of

Com. Pleas. the Lord the King of the Bench here, his certain Bill againſt *J. C.* Gentleman, one of the Attornies of the Court of the Lord the King of the Bench here preſent here in Court in his proper Perſon, of a Plea of Debt, the Tenor of which ſaid Bill follows in theſe Words: *ſſ.* To the Juſtices of the Lord the King of the Bench, *Kent*, to wit, *R. T.* Gent. by *Thomas Hand* his Attorney complains of *J. C.* Gent. otherwiſe called, *&c.* preſent here in Court in his proper Perſon, for that he hath not rendered to the ſame (*Plaintiff*) eighty Pounds which he owes to him and unjuſtly detains, for that, to wit, that **whereas** the aforeſaid (*Defendant*) on the fifteenth Day of *October* in the fifth Year of the Reign of the Lord the now King, at *S.* by his certain Writing obligatory, *&c. as in others*; And thereof prays Remedy, *&c.* Pledges, (*&c.*)

Declaration for Husband and Wife, on a Bond made to the Wife when ſingle.

B. to wit, W. *H.* late of, (*&c.*) was ſummoned to anſwer *J. F.* and *A.* his Wife, otherwiſe called, (*&c.*) of a Plea, that he render to them ſix Pounds which he owes them, and unjuſtly detains, *&c.* And whereupon the ſame (*Plaintiff*) by *T. H.* his Attorney ſaith, that **whereas** the aforeſaid (*Defendant*) on the ſecond Day of *June* in the fifth Year of the Reign of the Lord the now King, at, (*&c.*) by his certain Writing obligatory acknowledged himſelf to be held and

firmly bound to the aforeſaid *A.* (whilſt ſhe was ſingle,) in the aforeſaid ſix Pounds, to be paid to the ſame *A.* when he ſhould be thereto required: **Nevertheleſs** the aforeſaid (*Defendant*) although often required, hath not rendered to the ſame *A.* (whilſt ſhe was ſingle,) the aforeſaid ſix Pounds, or to the ſame *J.* and *A.* after the Marriage were celebrated between them, but hath denied to render the ſame to them, and ſtill denies to render the ſame to them the ſaid *J.* and *A.* wherefore they ſay that they are injured, and have Damage to the Value of, (*&c.*) And thereof, (*&c.*) And they bring here into Court, (*&c.*) Com. Pleas.

Declaration on a Bond made to the Husband and Wife, and the Wife ſurvived the Husband.

London, to wit, O. *W.* late of, (*&c.*) otherwiſe called, (*&c.*) was ſummoned to anſwer unto *K. B.* Widow, of a Plea, that he render to her One hunderd Pounds, which he owes her and unjuſtly detains, (*&c.*) And whereupon the ſame (*Plaintiff*) by *D. R.* her Attorney ſaith, that **whereas** the aforeſaid (*Defendant*) on the tenth Day of *June* in the fifth Year of the Reign of the Lord the now King, at, (*&c.*) by his certain Writing obligatory acknowledged himſelf to be held and firmly bound to one *T. B.* Knt. now deceaſed, and the ſame *K.* then his Wife, (which ſaid *T.* the ſame (*Plaintiff*) hath ſurvived,) in the aforeſaid One hundred Pounds, to be paid to them the ſaid *T.* and *K.* or either of them,

Com. Pleas. them, when he ſhould be thereto required; Yet the aforeſaid (*Defendant*) although often requeſted, hath not rendered the aforeſaid One hundred Pounds to the aforeſaid *T.* and *K.* or either of them, in the Life-time of the ſaid *T.* or to the ſame *K.* after the Death of the ſaid *T.* whom the ſame (*Plaintiff*) hath ſurvived, but hath denied to render the ſame to them, and ſtill doth deny to render the ſame to the ſame (*Plaintiff*); whereupon ſhe ſaith that ſhe is injured, (*&c.*) And thereupon, (*&c.*) And ſhe brings here into Court, (*&c.*)

Declaration on a Bond, at the Suit of an Executrix.

Oxford, to wit, S. *F.* late of, (*&c.*) otherwiſe called, (*&c.*) was ſummoned to anſwer unto *A. H.* Widow, Executrix of the laſt Will and Teſtament of *T. H.* of a Plea, that he render to her twenty Pounds which he unjuſtly detains from her, (*&c.*) And whereupon the ſame (*Plaintiff*) by *D. R.* her Attorney ſaith, that Whereas the aforeſaid (*Defendant*) on the tenth Day of *November* in the fifth Year of the Reign of the Lord the now King, at *C.* in the County aforeſaid, by his certain Writing obligatory acknowledged himſelf to be held and firmly bound to the aforeſaid *T.* in his Life time in the aforeſaid twenty Pounds, to be paid to the ſame *T.* when he ſhould be thereto requeſted: Yet the aforeſaid (*Defendant*) although often requeſted, hath not rendered the aforeſaid twenty Pounds to the aforeſaid *T.* in his Life-time, or to the ſame (*Plaintiff*) after the Death of him the ſaid *T.*

T. but hath hitherto refuſed to render the ſame to him, and ſtill doth refuſe to render the ſame to the ſame (*Plaintiff*) and unjuſtly detains the ſame from her; whereupon ſhe ſaith that ſhe is injured, and hath Damage to the Value of ten Pounds; And thereupon ſhe brings her Suit, *&c.* And ſhe brings here into Court as well the Writing aforeſaid, which teſtifies the Debt aforeſaid in Form aforeſaid, the Date whereof is the ſame Day and Year aboveſaid, as the Letters Teſtamentary of the aforeſaid *T.* by which it fully appears to the Court here, that ſhe the ſaid (*Plaintiff*) is the Executrix of the laſt Will and Teſtament aforeſaid, and hath Adminiſtration thereof, *&c.* Com. Pleas.

Declaration for a Husband and Wife, ſhe being Executrix, and another a Co-executrix, on a Bond.

London, to wit, S. *B.* late of, (*&c.*) otherwiſe called, (*&c*) was ſummoned to anſwer unto *P. H.* Gent. and *Sarah* his Wife, which ſaid *S.* is Executrix of the laſt Will and Teſtament of *H. C.* Knt. and *K. C.* Co-Executrix with the aforeſaid *S.* of the Teſtament aforeſaid, of a Plea, that he render to them forty Pounds which he unjuſtly detains from them, *&c.* And whereupon the ſame *P. S.* and *K.* by *D. R.* their Attorney ſay, that whereas the aforeſaid (*Defendant*) on the tenth Day of *May* in the fourth Year of the Reign of the now King, at *London* in the Pariſh, (*&c.*) by his certain Writing obligatory acknowledged himſelf to be

Com. Pleas. be held and firmly bound to the aforeſaid *Henry* in the aforeſaid forty Pounds, to be paid to the ſame *Henry* when he ſhould be thereto requeſted; Yet the aforeſaid (*Defendant*) although often requeſted, the aforeſaid forty Pounds to the aforeſaid *Henry* in his Life-time, or to the ſame *S.* and *K.* after the Death of the ſaid *Henry* (whilſt the ſame *S.* was ſingle,) or to the ſame *P. S.* and *K.* after the Marriage between them the ſaid *P.* and *S.* were celebrated, hath not rendered, but hath refuſed to render the ſame to them, and ſtill doth refuſe to render the ſame to them the ſaid *P. S.* and *K.* and unjuſtly detains the ſame from them; wherefore they ſay that they are injured, and have Damage to the Value of ten Pounds; And therefore, (*&c*) And they bring here into Court as well the Writing aforeſaid, which teſtifies the Debt aforeſaid in Form aforeſaid, the Date whereof is the Day and Year aboveſaid, as the Letters Teſtamentary of the aforeſaid *H.* by which it fully appears to the Court here, that they the ſaid *S.* and *K.* are Executrixes of the laſt Will and Teſtament aforeſaid, and have the Adminiſtration thereof, *&c.*

Treſpaſs.

Treſpaſs.

Declaration for breaking of Plaintiff's *Cloſe, and treading down the Graſs, and breaking the Hedges*, &c.

Norfolk, to wit, H. *K.* late of, *&c.* was attached to anſwer *R. S.* of a Plea, wherefore with Force and Arms the Cloſe of him the ſaid *R.* at *C.* in the ſaid County, he broke and entered, and the Graſs there growing, with his Feet by walking trod down and conſumed, to the Value of One hundred Shillings; and alſo his Hedges of the ſaid Cloſe, to the Value of other One hundred Shillings, he broke and trod down, and other Enormities to him did, to the great Damage of the ſaid *R.* and againſt the Peace of the Lord the now King, *&c.* And whereupon the ſaid *R.* by *T. H.* his Attorney complains, that the ſaid *H.* on the firſt Day of *May* in the ſixth Year of the now King, with Force and Arms the Cloſe of him the ſaid *R.* at *C.* aforeſaid, called by the Name of *Park-Place*, he broke and entered, and the Graſs, to the Value, *&c.* there growing, by walking with his Feet trod down and conſumed; and alſo the Hedges in the ſaid Cloſe then being, to wit, ten Perches of Hedges, to the Value, *&c.* he then and there broke and trod down, and other Enormities, *&c.* to the great Damage, *&c.* and againſt the Peace, *&c.* Wherefore

Com. Pleas. fore the ſaid *R.* ſays he is injured, and hath Damage to the Value of ten Pounds; And therefore he brings his Suit, *&c.*

For pulling down a Wall, and carrying away the Bricks.

York, to wit, J. C. was attached to anſwer unto *E. K.* of a Plea, wherefore the aforeſaid *J.* together with *B. T. D. R.* and *A. B.* with Force and Arms, *&c.* the Houſe of him the ſaid (*Plaintiff*) at *N.* aforeſaid they broke, and the Wall of the Houſe aforeſaid, upon which Part of the Roof of the Houſe aforeſaid was then placed, with Force and Arms, *&c.* they then and there broke and pulled down, and the Roof of the Houſe aforeſaid they endeavoured to pull down, and the Bricks of the Wall aforeſaid, to the Value of forty Shillings, they then and there took and carried away, and him the ſaid (*Plaintiff*) in the Building of the Houſe aforeſaid, they then and there greatly hindered and diſturbed; ſo that the ſame (*Plaintiff*) was obliged to leave off building the Houſe aforeſaid, by which the ſame (*Plaintiff*) for a long Time loſt the Profit of the Houſe aforeſaid, and other Enormities to him did, to the great Damage of the ſaid (*Plaintiff*) and againſt the Peace of the Lord the now King, *&c.* And whereupon the ſame (*Plaintiff*) by *T. B.* his Attorney complains, that the aforeſaid *J.* together with, (*&c.*) on the ſeventeenth Day of *December* in the fifth Year of the Reign of the ſaid Lord the now King, with Force and Arms,

Arms, &c. the Houſe of the ſaid (*Plaintiff*) at *N.* aforeſaid, they broke, and the Wall of the Houſe aforeſaid, upon which Part of the Roof of the Houſe aforeſaid was then placed, with Force and Arms, &c. they then and there broke and pulled down, and endeavoured to pull down the Roof of the ſaid Houſe, and then and there took and carried away the Bricks of the Wall aforeſaid, to wit, four thouſand Bricks, to the Value of, &c. and then and there hindered and diſturbed him the ſaid (*Plaintiff*) in the Building of the Houſe aforeſaid; ſo that the ſame (*Plaintiff*) was compelled to forbear from the Building and Fitting up of the Houſe aforeſaid, by which the ſame (*Plaintiff*) the Profit of the Houſe aforeſaid for a long Time, to wit, for the Space of two Months intirely loſt, and other Enormities, &c. to the great Damage, &c. and againſt the Peace, &c. Wherefore he ſaith that he is injured, and hath Damage to the Value of fifty Pounds; And thereupon he brings his Suit, &c. Com. Pleas.

Juſtification for carrying away the Bricks, and breaking down the Wall; for that B. T. *was ſeiſed in Fee.*

And the aforeſaid (*Defendant*) by *S. D.* his Attorney, comes and defends the Force and Injury, when and where and as the Court ſhall think fit, &c. And as to the coming with Force and Arms, and alſo the whole Treſpaſs in the Declaration aforeſaid ſpecified, beſides *Plea.*

Com. Pleas. ſides the Breaking and Pulling down the Wall aforeſaid, and the Taking and Carrying away the Bricks of the Wall aforeſaid, to the Hindrance and Diſturbance aforeſaid, by and in the Building of the Houſe aforeſaid, ſay, that they are not thereof guilty, in Manner and Form as the aforeſaid (*Plaintiff*) above thereof againſt them complains; And of this they put themſelves upon the Country: And the aforeſaid (*Plaintiff*) likewiſe, &c. And as to the Breaking and Pulling down the Wall aforeſaid, and the Taking and Carrying away the Bricks of the Wall aforeſaid, and the Hindrance and Diſturbance of the aforeſaid (*Plaintiff*) in the Building of the Houſe aforeſaid, the ſame (*Defendants*) ſay, that the aforeſaid (*Plaintiff*) ought not to have his Action aforeſaid thereof againſt them, becauſe they ſay, that he the ſame *B. C.* long before the Time in which, &c. and alſo at the ſame Time when the Treſpaſs aforeſaid was as above ſuppoſed to be done, was and ſtill is ſeiſed in his Demeſne as of Fee of and in one Meſſuage, and one Yard to the ſame Meſſuage belonging, ſituate and being in *N.* aforeſaid, and of the Wall aforeſaid in the Declaration aforeſaid mentioned, being the Wall and Yard aforeſaid on the Eaſt-Side thereof incloſed: And the ſame (*Defendant*) further ſaith, that the aforeſaid (*Plaintiff*) before the aforeſaid Time in which, &c. with Force and Arms of his own proper Wrong, and without the Leave and againſt the Will of him *T. C.* the aforeſaid Bricks in the Declaration aforeſaid mentioned in the Wall aforeſaid, and in and upon the Wall aforeſaid of the aforeſaid *B. C.*

with

with the Mortar placed and fixed, and there- Com Pleas.
by raiſed the Wall aforeſaid, and cauſed Part of the Roof to be made upon the Wall aforeſaid, with that Intent to build there a certain Houſe, by which the ſame *B. C.* in his proper Wall, and the aforeſaid *J. R.* as Servant of him the ſaid *B. C.* and by his Command, at the aforeſaid Time which, *&c.* broke the Mortar aforeſaid, and threw down and carried away the aforeſaid Bricks by the aforeſaid (*Plaintiff*) in the Wall aforeſaid of the aforeſaid *B. C.* ſo as aforeſaid fixt in the Mortar, as the proper Bricks of him the ſaid *B. C.* and thereby hindered the ſame (*Plaintiff*) from building the Houſe aforeſaid upon the Wall aforeſaid, as it was lawful for them to do; which ſaid Breaking of the Mortar aforeſaid, the Throwing down, Taking and Carrying away the Bricks of the Wall aforeſaid, and the aforeſaid Hindrance and Diſturbance of the aforeſaid (*Plaintiff*) in the Building of the Houſe aforeſaid, is the Treſpaſs aforeſaid whereof the aforeſaid (*Plaintiff*) above now complains: And this they are ready to verify: Wherefore they pray Judgment, if the ſaid (*Plaintiff*) ought to have or maintain his Action aforeſaid thereof againſt them, *&c.*

Replication, That the Plaintiff *was ſeiſed of the Wall. Traverſe.*

And the aforeſaid (*Plaintiff*) as to the a- *Replication*
foreſaid Plea of the aforeſaid (*Defendants*) as to the Breaking and Throwing down the Wall aforeſaid, and the Taking and Carrying away

Com. Pleas. the Bricks of the Wall aforeſaid, and the Hindrance and Diſturbance of the aforeſaid (*Plaintiff*) in the Building of the Houſe aforeſaid in Form aforeſaid done, above in Bar pleaded, ſaith, that he, for any Matter in the ſame Plea alledged, ought not to be precluded from having his Action aforeſaid thereof againſt the aforeſaid (*Defendant*) becauſe he ſaith, that he the ſame (*Plaintiff*) at the Time which, &c. was ſeiſed in his Demeſne as of Fee of the Wall aforeſaid in the Declaration above mentioned, as of the Houſe and Wall aforeſaid of him the ſaid (*Plaintiff*) and that the aforeſaid (*Defendant*) the Day and Year aboveſaid in the Declaration aforeſaid above ſpecified, in their own proper Wrong, broke the Houſe of him the ſaid (*Plaintiff*) at *N.* aforeſaid, and the Wall of the Houſe aforeſaid, upon which Part of the Roof of the Houſe aforeſaid then was placed by Force and Arms then and there broke and pulled down; and they endeavoured to pull down the Roof of the Houſe aforeſaid, and they then and there took and carried away the Bricks of the Wall aforeſaid, and the ſame (*Plaintiff*) then and there greatly hindred and diſturbed in the Building of the Houſe aforeſaid, ſo that the ſame (*Plaintiff*) was forced to forbear in the Building and Finiſhing the Houſe aforeſaid, by which the ſame (*Plaintiff*) for a long Time loſt the Profit of the Houſe aforeſaid, ſo as the ſame (*Plaintiff*) above againſt them complains. Without this, that the aforeſaid *B. C.* at the Time which, &c. was ſeiſed in his Demeſne as of Fee of the Wall aforeſaid in the Declaration

claration aforeſaid above mentioned, as the aforeſaid (*Defendant*) above in Pleading hath alledged: And this he is ready to verify: Wherefore as the aforeſaid (*Defendant*) hath above acknowledged the Treſpaſs aforeſaid, as to the Breaking and Pulling down the Wall aforeſaid, and the Taking and Carrying away the Bricks of the Wall aforeſaid, and the Hindrance and Diſturbance of the aforeſaid (*Plaintiff*) in the Building of the Wall aforeſaid in Form aforeſaid made, the ſame (*Plaintiff*) prays Judgment, and his Damages on Occaſion of that Treſpaſs, to be adjudged to him, &c. Com. Pleas.

REJOINDER.

Rejoinder.

And the aforeſaid (*Defendants*) as before ſay, that the aforeſaid *B. C.* at the Time which, &c. was ſeiſed in his Demeſne as of Fee of the Wall aforeſaid in the Declaration aforeſaid above mentioned, as the aforeſaid (*Defendants*) above in Pleading thereof have alledged: And of this they put themſelves upon the Country: And the aforeſaid (*Plaintiff*) likewiſe, &c. Therefore as well to try that Iſſue, as the aforeſaid other Iſſues between the Parties aforeſaid above joined, the Sheriff is commanded, &c.

Declaration for entring a Houſe with Iron Inſtruments, and breaking the Doors, and putting the Plaintiff *and his Family in Fear of their Lives, ſo that they could not mind their Buſineſs.*

York, to wit, W. *B.* late of *Leeds* in the County of *York*, Clerk, *E. F. G. &c.* were attached to anſwer unto *R. D.* of a Plea wherefore they, together with one *A. B.* with Force and Arms, the Manſion-Houſe of him the ſaid (*Plaintiff*) at *Leeds* aforeſaid broke and entered, and the Doors of that Houſe, with certain great Iron Inſtruments, and with great Staves and Clubs and Stones, they then and there broke and ſpoiled; and the ſame (*Plaintiff*) and his Family, then and there being in the Houſe aforeſaid, in bodily Fear of their Lives then and there put, and the ſame (*Plaintiff*) and his Servants, with ſuch and ſo great Threats of their Lives, and the Maiming of their Limbs, were then and their threatned and affrighted, that they dare not mind the lawful Buſineſs of the (*Plaintiff*) on that Occaſion, and other Enormities they then and there to him did, to the grert Damage of the ſaid (*Plaintiff*), and againſt the Peace of the Lord the now King, *&c.* And whereupon the ſame (*Plaintiff*) by *Thomas Hand* his Attorney complains, that the aforeſaid (*Defendant*) together with the

the aforeſaid *A. B.* on the tenth Day of *July* Com. Plea.
in the Year of our Lord One thouſand ſeven hundred and thirty-one, with Force and Arms, *&c.* the Manſion houſe of the ſaid (*Plaintiff*) at *Leeds* aforeſaid they broke and entred, and the Doors of that Houſe with certain great Iron Inſtruments, and with great Clubs, and Staves and Stones, entered and ſpoiled, and him the ſaid (*Plaintiff*) and his Family, being then and there in the Houſe aforeſaid, then and there put in bodily Fear of their Lives; and the ſame (*Plaintiff*) and his Servants, with ſuch and ſo great Threats of their Lives and Maiming of their Limbs, then and there were threatened and affrighted, that they dare not mind the lawful Buſineſs of the ſaid (*Plaintiff*) on that Occaſion, and other Enormities, *&c.* to the great Damage, *&c.* and againſt the Peace, *&c.* Wherefore he ſaith that he is injured, and hath Damage to the Value of One hundred Pounds; And thereof brings his Suit, *&c.*

Declaration for worrying of Sheep with Dogs, whereby many of them died.

Devon, to wit, *W. W.* was attached to anſwer unto *T. T.* of a Plea, wherefore with Force and Arms forty Sheep of him the ſaid *T.* at *B.* with certain Dogs he chaſed, and with hollowing and ſetting on thoſe Dogs to bite the Sheep aforeſaid, that by that Chaſing and Biting of the Dogs aforeſaid ten Sheep of the Sheep aforeſaid

Com. Pleas. ſaid of the Value of five Pounds died, and the reſt of the Sheep were greatly injured; and did other Enormities to him, to the great Damage of the ſaid *T.* and againſt the Peace of the Lord the now King, *&c.* And whereupon the ſame *T.* by *T. H.* his Attorney complains, that the aforeſaid *W.* on the tenth Day of *June* in the fifth Year of the Reign of the Lord the now King, chaſed forty Sheep of the ſaid *T.* at *B.* with certain Dogs, and with hollowing and ſetting on thoſe Dogs to bite the Sheep aforeſaid, that by that Chaſing and Biting of the Dogs aforeſaid, ten Sheep of the Sheep aforeſaid of the Price of five Pounds died, and the reſt of the Sheep were greatly injured, and other Enormities, *&c.* to the great Damage, *&c.* and againſt the Peace, *&c.* Wherefore he ſaith that he is injured, and hath Damage to the Value of ten Pounds; And thereof he brings his Suit, *&c.*

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